943

84

188pgs

(7)

Supreme Court, U.S.
FILED
FEB 25 2008
OFFICE OF THE CLERK

No. 06-923

# IN THE
# Supreme Court of the United States

METROPOLITAN LIFE INSURANCE COMPANY AND LONG TERM DISABILITY PLAN FOR ASSOCIATES OF SEARS, ROEBUCK AND COMPANY,

*Petitioners,*

v.

WANDA GLENN,

*Respondent.*

**On Writ Of Certiorari To The United States Court Of Appeals For The Sixth Circuit**

## JOINT APPENDIX

MIGUEL A. ESTRADA
*Counsel of Record*
AMIR C. TAYRANI
MINODORA D. VANCEA
GIBSON, DUNN & CRUTCHER LLP
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036
(202) 955-8500

*Counsel for Petitioners*

E. JOSHUA ROSENKRANZ
*Counsel of Record*
HELLER EHRMAN LLP
7 Times Square
New York, NY 10036
(212) 832-8300

*Counsel for Respondent*

PETITION FOR WRIT OF CERTIORARI FILED JANUARY 3, 2007
CERTIORARI GRANTED JANUARY 18, 2008

## TABLE OF CONTENTS


Page

Relevant Docket Entries from the United States Court of Appeals for the Sixth Circuit, No. 05-3918 ..... 1a

Relevant Docket Entries from the United States District Court for the Southern District of Ohio, No. 2:03-CV-00572 ..... 6a

Excerpts of Stipulated Administrative Record:

Excerpts of Long Term Disability Benefits Plan (A.R. 2) ..... 11a

Excerpts of Diary Notes (A.R. 25) ..... 13a

MetLife Decision Letter (May 20, 2003) (A.R. 53) ..... 23a

Letter from Nancy Perry to Wanda Glenn (Nov. 22, 2002) (A.R. 60) ..... 27a

MetLife Decision Letter (Aug. 28, 2002) (A.R. 66) ..... 29a

Letter from Nancy Perry to Wanda Glenn (Aug. 8, 2002) (A.R. 70) ..... 34a

Letter from Wanda Glenn to Earl Chesler (July 26, 2002) (A.R. 72) ..... 35a

Letter from Dr. Pujara to UNIVAL (May 2, 2003) (A.R. 85) ..... 37a

Letter from Dr. Patel to Stanley Myers (Feb. 12, 2003) (A.R. 90) ..... 41a

Letter from Dr. Patel (July 22, 2002) (A.R. 91) ..... 44a

Letter from Dr. Patel to Dr. Rhee (June 18, 2002) (A.R. 93) ..... 46a

Letter from Dr. Patel to Dr. Rhee (Apr. 30, 2002) (A.R. 94) ..... 48a

Letter from Dr. Patel to Dr. Rhee (Feb. 5, 2002) (A.R. 97) ..... 50a

Letter from Earl Chesler to Dr. Patel (June 5, 2002) (A.R. 98) ..... 52a

Physical Capacities Evaluation (June 12, 2002) (A.R. 99) ..... 54a

Physical Capacities Evaluation (Mar. 12, 2002) (A.R. 102) ..... 57a

Letter from Dr. Patel to Dr. Rhee (Nov. 21, 2001) (A.R. 110) ..... 62a

Letter from Dr. Patel to Dr. Rhee (Aug. 3, 2001) (A.R. 111) ..... 64a

Attending Physician's Statement of Functional Capacity (Dec. 19, 2001) (A.R. 112) ..... 66a

Letter from Dr. Patel to Dr. Rhee (Apr. 6, 2001) (A.R. 115) ..... 71a

Echocardiographic Report (Mar. 28, 2001) (A.R. 120) ..... 73a

Letter from Dr. Patel to Dr. Rhee (Dec. 15, 2000) (A.R. 121) ..... 75a

Attending Physician's Statement of Functional Capacity (Nov. 20, 2000) (A.R. 122) ..... 77a

Letter from Dr. Patel to Dr. Rhee (Apr. 7, 2000) (A.R. 125) ..... 82a

Letter from Dr. Patel to Dr. Rhee (July 28, 2000) (A.R. 126) ..... 84a

Letter from Dr. Patel to Dr. Rhee (Apr. 28, 2000) (A.R. 127) ..... 86a

Letter from Dr. Patel (Apr. 19, 2000) (A.R. 128) ..... 88a

Letter from Dr. Patel to Dr. Rhee (Mar. 13, 2000) (A.R. 129) ..... 89a

Letter from Dr. Patel to Dr. Rhee (Mar. 15, 2000) (A.R. 130) ..... 91a

Letter from Dr. Patel to Dr. Rhee (Mar. 3, 2000) (A.R. 131) ..... 92a

Attending Physician's Statement of Functional Capacity (June 27, 2001) (A.R. 149) ..... 95a

Transferable Skills Assessment (July 10, 2002) (A.R. 151) ..... 100a

Attending Physician's Statement of Functional Capacity (Aug. 2, 2000) (A.R. 154) ..... 105a

Employer's Statement of LTD Claim (July 2, 2000) (A.R. 169) ..... 112a

Letter from Maria Flores to Paul DePree, (July 8, 2002) (A.R. 177) ..... 118a

SSA Notice of Award (June 15, 2002) (A.R. 179) ..... 120a

List of Exhibits to the SSA Determination (Apr. 22, 2002) (A.R. 202) ..... 128a

Letter from Valerie Barich to the Honorable Thomas P. Piliero (Mar. 12, 2002) (A.R. 205) ..... 131a

Letter from Ed Peters to Wanda Glenn (Oct. 10, 2000) (A.R. 217) [second page of letter reproduced from App. 1 to Plaintiff's Motion for Judgment on the Administrative Record (Sept. 4, 2004)] ..... 145a

Summary Plan Description (A.R. 231) ..... 148a

The following opinions and orders have been omitted in printing this joint appendix because they appear on the following pages in the appendix to the petition for a writ of certiorari:

Opinion of the United States Court of Appeals for the Sixth Circuit (Sept. 1, 2006) ..... 1a

Order of the United States District Court for the Southern District of Ohio (June 8, 2005) ..... 27a

Social Security Administration Decision (April 22, 2002) ..... 41a

**General Docket**
**United States Court of Appeals for the Sixth Circuit**

**Court of Appeals Docket #:** 05-3918
**Nsuit:** 1890 Other Statutory Actions
Glenn v. MetLife, et al.
**Appeal From:** Southern District of Ohio at Columbus

**Filed:** 07/20/2005
**Termed:** 09/01/2006

**Case Type Information:**
1) Civil
2) Private
3) Federal Question

**Originating Court Information:**
**District:** 0648-2 : 03-00572
**Trial Judge:** George C. Smith, U.S. District Judge
**Date Filed:** 06/23/2003
**Date Order/Judgment:** 06/08/2005

**Date NOA Filed:** 07/07/2005

* * *

WANDA GLENN

Plaintiff – Appellant

v.

METROPOLITAN LIFE INSURANCE COMPANY, et al.

Defendants – Appellees.

| | |
|---|---|
| 07/20/2005 | Civil Case Docketed. Notice filed by Appellant Wanda Glenn. Transcript needed: n. |
| | * * * |
| 08/17/2005 | TRANSCRIPT ORDER FORM filed by Stanley L. Myers for Appellant Wanda Glenn: No hearings held in District Court. [05-3918] [3218029-1] |
| | * * * |
| 09/27/2005 | PROOF BRIEF filed by Stanley L. Myers for Appellant Wanda Glenn. Certificate of service date 9/26/05 Number of Pages: 45. [05-3918] |
| | * * * |
| 11/02/2005 | PROOF BRIEF filed by Charles S. Lanz for Appellee MetLife. Certificate of service date 10/31/05. Number of Pages: 46. [05-3918] |

* * *

11/18/2005 PROOF REPLY BRIEF filed by Stanley L. Myers for Appellant Wanda Glenn Certificate of service date 11/17/05 [05-3918]

* * *

12/16/2005 FINAL BRIEF filed by Charles S. Lanz for Appellee MetLife. Copies: 7. Certificate of service date 10/31/05, not updated for final brief. Number of Pages: 46. [05-3918]

* * *

12/20/2005 FINAL BRIEF filed by Stanley L. Myers for Appellant Wanda Glenn. Copies: 7. Certificate of service date 12/19/05. Number of Pages: 51. [05-3918]

12/20/2005 FINAL REPLY BRIEF filed by Stanley L. Myers for Appellant Wanda Glenn. Copies: 7 Certificate of service date 12/17/05. Number of Pages: 33. [05-3918]

* * *

04/28/2006 CAUSE ARGUED on 4/28/06 by Stanley L. Myers for Appellant Wanda Glenn, Charles S. Lanz for Appellee MetLife before Judges Keith, Merritt,

| | |
|---|---|
| | Daughtrey. [05-3918] |
| 09/01/2006 | OPINION filed: REVERSED the judgment of the district court and this case is remanded for further proceedings consistent with the opinion of this court [05-3918], decision for publication pursuant to local rule 206 [05-3918]. Damon J. Keith, Circuit Judge, Separate concurrence by Gilbert S. Merritt, Circuit Judge, Martha C. Daughtrey, Authoring Judge. |
| 09/01/2006 | JUDGMENT: REVERSED and remanded. |
| | * * * |
| 10/26/2007 | MANDATE ISSUED with no cost taxed. [05-3918] |
| | * * * |
| 02/05/2007 | Appellees' MOTION to recall mandate and stay mandate filed by Charles S. Lanz for Appellees MetLife, et al. Certificate of service date 2/2/07. [05-3918] |
| | * * * |

| | |
|---|---|
| 02/23/2007 | ORDER GRANTING appellees' motion to recall and stay the mandate filed by Charles S. Lanz. [05-3918] Damon J. Keith, Circuit Judge, Gilbert S. Merritt, Circuit Judge, Martha C. Daughtrey, Circuit Judge. |

* * *

**U.S. District Court**
**Southern District of Ohio (Columbus)**
**CIVIL DOCKET FOR CASE #:**
**2:03-CV-00572**

Glenn v. Metlife, et al.
Assigned to: George C. Smith
Referred to: Mag. Judge Mark R. Abel
Demand: $0
Member case: (View Member Case)
Case in other court: Sixth Circuit, 05-3918
Cause: 29:1001 E.R.I.S.A.: Employee Retirement

Date Filed: 06/23/2003
Jury Demand: None
Nature of Suit: 890 Other Statutory Actions
Jurisdiction: Federal Question

| Date Filed | # | Docket Text |
|---|---|---|
| 06/23/2003 | 1 | COMPLAINT (referred to Mag. Judge Mark R. Abel) (no. pgs: 3) (lvw) (Entered: 06/23/2003) |
| 08/25/2003 | 2 | ANSWER by defendant MetLife (no pgs: 5) (jh) (Entered: 08/26/2003) |
| * * * | | |
| 08/10/2004 | 7 | Stipulated ADMINISTRATIVE RECORD manually filed w/Clerk of Court. (jk) (Entered: 08/11/2004) |

| | | |
|---|---|---|
| | * * * | |
| 09/24/2004 | 9 | MOTION for Judgment as a Matter of Law by Plaintiff Wanda Glenn. Responses due by 10/18/2004 (Myers, Stanley) (Entered: 09/24/2004) |
| 11/08/2004 | 10 | RESPONSE in Opposition re 9 MOTION for Judgment as a Matter of Law *Memorandum in Opposition to Plaintiff's Motion and Cross-Motion for Judgment on the Administrative Record with Memorandum in Support* filed by Defendant MetLife. (Attachments: # 1 Appendix 1# 2 Appendix 2# 3 Appendix 3) (Lanz, Charles) (Entered: 11/08/2004) |
| 11/09/2004 | 11 | MOTION for Judgment on the Pleadings by Plaintiff Wanda Glenn. Responses due by 12/3/2004 (Myers, Stanley) (Entered: 11/09/2004) |
| 11/12/2004 | 12 | MOTION for Judgment as a Matter of Law by Plaintiff Wanda Glenn. Responses due by 12/6/2004 (Myers, Stanley) (Entered: 11/12/2004) |
| | * * * | |

| | | |
|---|---|---|
| 11/30/2004 | 14 | REPLY to Response to Motion re 12 MOTION for Judgment as a Matter of Law filed by Defendants Long Term Disability Plan for Salaried Associates of Sears, Roebuck and Company, MetLife. (Lanz, Charles) (Entered: 11/30/2004) |
| 12/02/2004 | 15 | MOTION for Judgment as a Matter of Law by Plaintiff Wanda Glenn. Responses due by 12/27/2004 (Myers, Stanley) (Entered: 12/02/2004) |
| 12/13/2004 | 16 | MOTION to Strike 15 MOTION for Judgment as a Matter of Law *or, in the Alternative, For Leave to File Sur-Response Brief* by Defendants MetLife, Long Term Disability Plan for Salaried Associates of Sears, Roebuck and Company. (Attachments: # 1 Proposed Journal Entry #1 # 2 Proposed Journal Entry #2 # 3 Appendix 1 (Defendants' Reply to Plaintiff's Memorandum Contra Defendants' Motion [for] Judgment) Lanz, Charles) (Entered: 12/13/2004) |
| 12/15/2004 | 17 | ORDER denying Defendants' 16 Motion to Strike, granting alternative motion for leave to file a sur-response brief. Signed |

| | | |
|---|---|---|
| | | by Judge Mark R. Abel on 12/15/04. (dms) (Entered: 12/15/2004) |
| 12/15/2004 | 18 | REPLY filed by Defendants to Plaintiff's Memo Contra to Defendants' MSJ. (dms) (Entered: 12/16/2004) |
| 12/16/2004 | 19 | MOTION Leave to file sur-response brief re 15 MOTION for Judgment as a Matter of Law by Plaintiff Wanda Glenn. (Myers, Stanley) (Entered: 12/16/2004) |
| 12/20/2004 | 20 | ORDER DENYING Plaintiff's 12/2/04 motion for judgment as a matter of law. Order GRANTING motion for leave to file sur-response brief. Clerk of Court is DIRECTED to file the sur-response brief. Signed by Judge Mark R. Abel on 12/20/04. (dms) (Entered: 12/20/2004) |
| 12/20/2004 | 21 | REPLY filed by Defendants to Plaintiff's Memo Contra Defendants' Motion for Judgment. (dms) (Entered: 12/20/2004) |
| * * * | | |
| 06/08/2005 | 23 | ORDER denying 9 Motion for Judgment as a Matter of Law |

| | | |
|---|---|---|
| | | and granting defendants' cross-motion for entry of judgment. Signed by Judge George C. Smith on 6-7-05. (ga) (Entered: 06/08/2005) |
| 06/08/2005 | 24 | CLERK'S JUDGMENT in favor of defendants against plaintiff. Signed on 6/8/05. (lvw) (Entered: 06/08/2005) |
| 07/07/2005 | 25 | NOTICE OF APPEAL as to 23 Order on Motion for Judgment as a Matter of Law & 24 Clerk's Judgment by Plaintiff Wanda Glenn. Filing fee $ 255.00, receipt number 247319. (jk) (Entered: 07/08/2005) |
| * * * | | |
| 02/27/2007 | 42 | ORDER of USCA as to 25 Notice of Appeal filed by Wanda Glenn: It is ORDERED that the mandate be RECALLED AND STAYED until the Supreme Court disposes of the case. (kch) (Entered: 02/28/2007) |
| 04/03/2007 | 43 | ORDER STAYING CASE. Signed by Judge George C Smith on 4-3-07. (ga) (Entered: 04/03/2007) |
| * * * | | |

# YOUR EMPLOYEE BENEFIT PLAN

## SEARS ROEBUCK & CO.

* * *

## TABLE OF CONTENTS


| Section | Page |
|---|---|
| SCHEDULE OF BENEFITS (Also see SCHEDULE SUPPLEMENT) | 1 |
| SCHEDULE SUPPLEMENT | 3 |
| DEFINITIONS OF CERTAIN TERMS USED HEREIN | 5 |
| ELIGIBILITY FOR BENEFITS | 6 |
| EFFECTIVE DATES OF PERSONAL BENEFITS | 6 |
| LONG TERM DISABILITY BENEFITS | 8 |
| CLAIM PROCEDURE FOR LONG TERM DISABILITY BENEFITS | 15 |
| WHEN BENEFITS END | 16 |
| CONDITIONS UNDER WHICH YOUR ACTIVE WORK IS DEEMED TO CONTINUE | 17 |
| CLAIMS INFORMATION | 18 |


* * *

---

## LONG TERM DISABILITY BENEFITS

---

* * *

Section B.4.d

d. In any case, when you do receive approval or final denial of your claim from the Social Security Administration:

   i. your Monthly Benefit will be adjusted; and

   ii. you must promptly refund to us an amount equal to all overpayments. If you do not promptly make such refund to us, we may, at our option, reduce or offset against any future benefits payable to you or through other legal actions deemed appropriate by us.

* * *

---

**CLAIM PROCEDURE FOR LONG TERM DISABILITY BENEFITS**

---

* * *

**F. Medical Examinations**

While a claim is pending, we, at our expense, have the right to have you examined by Doctors of our choice when and as often as we reasonably choose.

## Excerpts of Diary Notes

* * *

(X096) – On 10/11/2000 12:48 – For 690008108949

Social Security Attorney is:
Kennedy & Associates
6732 W. 173rd Street, Tinley Park, Ill. 60477
Phone 1-800-637-0593 Fax #708-832-7847
Letters of introduction were sent to the claimant and CC went to Kennedy. This claim was reviewed and chosen in a social security audit of active claims for potential SSDIB candidates by Dave Kennedy of Kennedy & Associates.
Ed Peters

* * *

(U015) – On 12/14/2000 08:37 – For 690008108949

All medical, vocational, & social security info from file copied & sent to Kennedy agency

* * *

(N192) – On 07/12/2002 08:36 – For 690008108949

Call-Up For: (N145) – On 07/15/200 Call-Up Complete: (N145) – On 07/13/2002
SS award information
Date of Notice: 6/15/2002.
Retro DOE: 10/2000.
DOE Benefit Amount: $825.00.
Fully favorable ALJ award level.
COLAS: 12/00; 12/01.
Earnings Adjustment: 1/01.
***SSDI Benefit Offset***
10/00 through 12/00 SSDI benefit offset amount: $825.00.

1/01 through current SSDI benefit offset amount: $859.00.
(Minus 12/00 COLA/plus 1/01 earnings adjustment)
Dependent information: per Atty Ltr dependent benefits not involved.
None indicated on DP screen.
Att Fee: $4434.50 approved by SSA. EE has been paid the Atty fee-see
DCN: 020710000436.
Atty Fee Code: SS award.
SS Status Code: ALJ approved.
SS Reason Code: Att handling SSDIB dev.
Date of Disability Onset: 4/30/00.
DCN: 020701009560.

* * *

(N145) – On 07/13/2002 12:20 – For 690008108949

Transition Decision Summary
Transition Date is 9/17/02
EE disabled from her OCC. OF Manager since 4/30/00, due to Idiopathic Cardiomyopathy, SOB, Fatigue.
Per EE's Cardiologist, in an 8 hour work day, EE can sit 8 hrs., stand for 4 hrs, walk for 2-4 hrs, lift/carry up to 10 lbs. Occasionally, use hands/feet for repetitive actions, frequently bend & squat, occasionally reach above shoulder level. No emotional stress or heavy exertion.
TSA identified alternate employment as account info clerk, attendance clerk, classified ad clerk.
Therefore, final benefits approved through 9/16/02.

(N145) – On 07/13/2002 12:21 – For 690008108949

Outgoing correspondence to EE

* * *

(X059) – On 7/16/2002 08:15 – For 690008108949

Call-Up For: (X059) – On 08/13/200: Call-Up Complete: (X059) – On 07/30/2002
New overpayment details: Rec SS award for $825.00 per month effective 100100 through 123100 and $859.00 per month effective 010101 causing an overpayment of $17,937.00 less approved fee credit of $4434.50 for a new Op Bal of $13,502.50; wrote EE ltr explaining and requesting reimbursement; also advised EE we will begin withholding the new monthly benefit of $991.00 starting Aug 2002 NPerry

(UZ13) – On 07/17/2002 16:42 – For 690008108949

Call-Up For: (N145) – On 07/17/200 Call-Up Complete: (N145) – On 07/18/2002
CRC: Trans EE CM N145 @ 4:40PM. Wants to discuss her claim ending on 9/16/02. She states she doesn't understand why if SSDIS states she is disabled then why doesn't MetLife agree. ADV EE of VM

(U839) – On 07/18/2002 11:24 – For 690008108949

Call-Up For: (MRCQ) – On 07/18/20 Call-Up Complete: (N145) – On 07/18/2002

CRC: Call back request call transferred to N145 VM

(N145) – On 07/18/2002 12:03 – For 690008108949

Outgoing Call to EE
She asked me to explain decision, I went over info. in file. I also advised her to review letter explaining

how to appeal. She feels that Dr. Patel told her very different info. re. what she can & can't do. She also asked why SS reached a different decision. I told her that we base our decision on all info. we received. If she feels that any info used by SS to reach a decision should be part of her appeal, she should include it with her written appeal.

* * *

(N145) – On 08/09/2002 14:39 – For 690008108949

Call-Up For: (N131) – On 08/12/200 Call-Up Complete: (N131) – On 08/20/2002

Referral to nurse consultant/please review new information/appeal does the new information submitted by the insured provide support of her inability to work at any occupation?

* * *

(N140) – On 08/26/2002 10:52 – For 690008108949

NC call/EE interview
8/15 – States she is capable of walking around mall, unsure of distance approx 1-2 miles QAM, 20 minutes after which she showers and occasionally naps. Is capable of light housework I.E. dusting, dishes, and OCC. cooking. No vacuuming. Children are grown. Socially she gets together with family on weekends, OCC movies. Dr. Choo placed her on dietary restrictions, current WT 183 (was 200s) Does not follow BP regularly, last 130/80. Current medications per PT include: Plavix, Normodyne, Norvasc, K-Dur, Lanoxin, Diovan, Labetolol, ASA, MVI and Calcium. States she is unable to work due to inability to withstand psychological stressors. States she has good and bad days. States ICD has

'shocked' her one time in the past, unsure of date. No SOB during telephone conversation noted.

* * *

(N131) – On 08/27/2002 13:04 – For 690008108949

Call-Up For: (N145) – On 08/27/200 Call-Up Complete: (N145) – On 08/28/2002

NC Appeal Review / Recommendation
50 Y/O sales manager. Employed 3/20/90. SSD approved. The claimant has HX of sudden cardiac death syndrom. Her current DX is dilated cardiomylopathy. She has an ICD with insync pacing. The most most recent echocardiogram findings reported for LV function was April 6, 2001 where her ejection fraction was reported as anywhere from 40-50%. Dr. Patel has documented concerns regarding c/o general fatigue and SOB assoc with c/o psychosocial problems. Medical documentation submitted for appeal review includes:
-- Claimant letter dated 7/26/02
-- Letter by Dr. Rajendra C. Patel, cardiologist, dated 7/22/02.
-- Letter by Sandy Roads, RN, dated 3/4/02, describing what happened in heart failure that might necessitate an ICD. Described how the claimant's ICD device works.
-- Copies of ICD interrogations from pacemaker implant of 1989, one rept from current device of 10/10/00, and pocket revision rept of 2/28/01.
Claimant's letter states 'I do not dispute the fact that since receiving the new N-Sync pacemaker/defibrillator, my condition has slightly improved. With the new device, I still experience bad days when it is impossible for me to perform even the simplest task of getting out of bed.' She speaks of her

dependability as an employee, that her condition is permanent, and that it is stressful enough to have to accept this and that it will probably never change. But, she states, if forced to go back to work, have to call off 3-4 time/mo, leave early, or get ill at work, it is hard to imagine the stress that she would be under. Dr. Patel indicates she has dilated cardiomyopathy and HX of ventricular tachycardia requiring implantable defib device. States she has been on multiple medications for her condition, continues to have significant difficulty in returning to even any kind of sedentary job because any kind of psychologic stress at work causes significant problems w/her cardiovascular condition and she decompensates fast. States this has happened on multiple occasions in the past. States tried to RTW in the past w/exacerbation of symptoms and her condition. States he does not believe she should be forced to return to any kind of even sedentary work particularly because it is psychologic stress of work that really exacerbates her cardiovascular condition/symptomology. States she basically should be considered completely disabled from her condition and history of ventricular tachycardia. The pacemaker reports were reviewed. The 2/28/01 operative rept describes revision of device pocket due to painful insertion site. The device was removed from the left abdominal area and implanted to the pectoral area. She had developed a painful mass in the previous site. Excisional debridement of necrotic tissue and removal of extensive scar tissue was performed. The 10/10/00 rept is actually the bottom portion of the operative rept indicated above, w/hand written date 10/10/00 inserted. The reports of 4/24/02, and 7/10/02, indicate each defibrillator eval was normal. The capture and sensing thresholds

were appropriate. There were no detections or therapies delivered by the ICD. Each rept indicated the ICD battery is now showing significant wear and is likely in the last year of service before replacement will be needed. The 7/10/02 rept indicates the ICD was reprogrammed to final settings reflective of appropriate safety margins and optimized to battery efficiency.

-- NC Recommendation:

1. The records submitted support stable cardiac status with no recent detections or therapies delivered by ICD. If ICD battery change necessitated within near future, an uncomplicated recovery is of a few wks duration.

2. The records submitted for review do not support cardiovascular impairment from performing at least F.T. sedentary level work of some type. There is no supportive medical documentation evidencing exacerbation of cardiovascular condition/ symptomology due to subjective c/o work stress. NC/CMS reviewed file for supportive information regarding claim previous RTW attemps. None appeared to be in the file. Per CMS ER interview 8/9/02 there was no prior RTW since disability absence started. There is no supportive documentation submitted for psychiatric impairment from working. The medications listed in the file include lasix, potassium, lanoxin, norvasc, aspirin, calcium, normodyne, and diovan. There does not appear to be any psychotropic medications prescribed. Per the TSA performed by the VRC, the claimant would have numerous and varied jobs from which to choose, within her TE&E for full time sedentary level work. Incidental absences for what is described as 'bad days.' Could be covered by other benefits and or possibly FMLA.

3. NC recommends that the information submitted on appeal does not change the previous finding for denial. Recommend apeal committee referral for any further consideration.

* * *

(N145) – On 08/28/2002 10:03 – For 690008108949

Denial rationale
EE submitted written appeal, indicating that she is still unable to RTW. File reviewed by NC who discussed file with EE, and also obtained additional medical records. NC concluded that EE's cardiac condition is stable, and does not preclude her from working at full time sedentary employment. VRC previously verified existing employment within sedentary level of activity. Therefore, we are upholding any OCC denial.

* * *

(N169) – On 02/21/2003 08:16 – For 690008108949

Call-Up for: (N145) – On 02/21/200 Call-Up Complete: (N145) – On 02/21/2003

NC walk-up done with N145
-- NC recommendation/see previous diary.
-- MD states in APS that EE was fit for sedentary work, in March of 02 In letter dated 2/03 MD states that based on her clinical condition and symptomology there is not time where I feel EE can return to F/T employment. However no additional medical has been received to review for change in EE status.

* * *

(N145) – On 03/18/2003 13:13 – For 690008108949

Incoming call from Cathy Stein @ Kennedy & Associates. They have requested the file from storage. They will fax to us ASAP. I asked for rush handling, as we are reviewing an appeal by EE.

* * *

(U184) – On 05/20/2003 12:40 – For 690008108949

Appeal determination by appeal unit: termination upheld.
Letter mailed to Atty.
DLW: 4/29/00 as a sales department manager. TSA based on 6/12/02 AP restriction identified sedentary jobs. CLM terminated at trans (9/16/02).
February 12, 2003, letter from Dr. Patel. Dr. Patel noted that his previous reports indicated that Ms. Glenn was fit for sedentary work, however based on her clinical condition and symptomatology, Dr. Patel never felt that Ms. Glenn could return to full-time employment. Dr. Patel's position was that Ms. Glenn should be considered completely disabled from her cardiomyopathy and associated symptoms from her LV dysfunction.
IPC: Ms. Glenn's ejection fraction had improved with medical therapy and probably with biventricular pacing. The consultant indicated that clinically Ms. Glenn had improved and has been relatively free of any significant cardiac decompensation as documented by Dr. Patel's follow-up notes. The adenosine cardiolite stress study and 2-D echocardiogram, failed to reveal any evidence of reversible ischemia and the left ventricular ejection fraction went up to 40-45%. The consultant noted that based on the medical information Ms. Glenn has

achieved a relatively stable cardiac status. CLM on ACS. CLM upheld. Letter mailed to Atty. SAL

* * *

May 20, 2003

**MetLife**
PO Box 14592
Lexington, KY 40511

Stanley Myers
Attorneys at Law
221 S. High Street
Columbus, OH 43215

RE: Long Term Disability
Claim No: 690008108949
Group No: 31003
SS#: [OMITTED]
Claimant: Wanda Glenn

Dear Mr. Myers

We have completed our review of the termination of Ms. Glenn's claim for disability benefits. For the following reasons, the original determination is upheld upon appeal review.

The employer's plan states the following:

As used in the Plan, the term "Total Disability" has two definitions:

1. During the Waiting Period and for the next 24 consecutive months, "Total Disability" means that because of Illness or Injury, you cannot perform the material duties of your own job.

2. After that time period, you will no longer be considered Totally Disabled unless you are totally incapable of performing the material duties of any gainful occupation for which you are reasonably qualified based on your training, education, and experience.

We have reviewed Ms. Glenn's entire claim.

Our records indicate that Ms. Glenn's last worked on April 29, 2000 as a Sales Department Manager. Ms. Glenn received Long Term Disability benefits through September 16, 2002. In order to receive benefits beyond September 16, 2002, Ms. Glenn must be incapable of performing the material duties of any gainful occupation as defined in the plan.

Current Medical information is required at various points during a disability to substantiate the continued existence of a disabling condition as defined in the Group Plan.

We review an individual's vocational information, medical information and an individual's specific restrictions and limitations that are supported by objective medical evidence in making a claim determination.

On June 12, 2002, Dr. Rajendra Patel, Cardiologist completed a Physical Capacities Evaluation form. The form indicated that Ms. Glenn could sit for 8 hours, stand for 4 hours, and walk from 2-4 hours in an 8-hour workday. Dr. Patel noted she could occasionally lift and carry up to 10lbs. It was noted she could use her hands for repetitive action and her right foot in operating foot controls. Ms. Glenn could not crawl or climb. She could occasionally reach above shoulder level and frequently bend and squat. The form indicated she should avoid unprotected heights and being around moving machinery. Ms. Glenn had moderate restrictions for exposure to temperature changes, driving automotive equipment, and exposure to dust, fumes, and gases. Dr. Patel indicated additional restrictions of no emotional stress or heavy exertion.

On July 10, 2002 a Certified Rehabilitation Counselor performed a Transferable Skills Analysis (TSA). The TSA was based on Dr. Patel's June 12, 2002 restrictions. The TSA identified alternative sedentary occupations that Ms. Glenn demonstrated the transferable skills to perform within her residual physical capacities, which were found in her geographical area.

We received a February 12, 2003, letter from Dr. Patel. Dr. Patel noted that his previous reports indicated that Ms. Glenn was fit for sedentary work, however based on her clinical condition and symptomatology, Dr. Patel never felt that Ms. Glenn could return to full-time employment. Dr. Patel's position was that Ms. Glenn should be considered completely disabled from her cardiomyopathy and associated symptoms from her LV dysfunction.

On May 2, 2003 an Independent Physician Consultant Board certified in Cardiology reviewed Ms. Glenn's claim. The consultant noted that Ms. Glenn had a biventricular pacemaker implanted. Ms. Glenn's ejection fraction had improved with medical therapy and probably with biventricular pacing. The consultant indicated that clinically Ms. Glenn had improved and has been relatively free of any significant cardiac decompensation as documented by Dr. Patel's follow-up notes. The adenosine Cardiolite stress study and 2-D echocardiogram, failed to reveal any evidence of reversible ischemia and the left ventricular ejection fraction went up to 40-45%. The consultant noted that based on the medical information Ms. Glenn has achieved a relatively stable cardiac status.

We have determined that the documentation currently in the file does not support a disability that

would prevent Ms. Glenn from performing any occupation, as defined in the plan. Therefore, the original claim determination was appropriate.

Upon request, MetLife will provide you with a copy of the documents, records, or other information we have that are relevant to your claim and identify any medical or vocational expert(s) whose advice was obtained in connection with your claim. You also have the right to bring civil action under Section 502(a) of the Employee Retirement Income Security Act of 1974.

You have exhausted the administrative remedies under the plan, no further appeals will be considered.

Yours truly

/s/

Sal Marchese
Procedure Analyst
MetLife Disability
1 800 300-4296

**Metropolitan Life Insurance Company**

**MetLife**

**MetLife Disability**
**PO Box 14590**
**Lexington, KY 40511-4590**

November 22, 2002

Wanda Glenn
2566 Sonata Drive
Columbus, OH 43209

Re: Long Term Disability
Claim No: 690008108949
Group No: 31003

Dear Ms. Glenn:

We are contacting you in regard to the outstanding overpayment balance of $210.47 due and owing to MetLife and the Sears Roebuck & Company Group Disability Plan. As explained to you in previous correspondence, the amount due is the result of the reduction of your Long Term Disability benefits by the amount you received from your Social Security Award. This reduction is mandated by the terms of the Group Long Term Disability Plan. The above amount remains due and owing and must be repaid immediately to MetLife as Claims Administrator of the Sears Roebuck & Company Group Disability Plan.

This letter is final demand for either lump sum reimbursement or a monthly installment agreement. Please keep in mind that we are not computing interest due at this time. If a lump sum repayment is not possible at this time, we are willing to consider an installment arrangement.

You should understand that you have been overpaid employee welfare plan benefits, monies to which you are not legally entitled. These overpaid benefits necessarily reduce the assets of the plan and the cost of such is passed on to all plan participants. If Metlife were to allow you to retain the overpaid plan benefits, we would not be treating all plan beneficiaries fairly. It is necessary that you contact the undersigned immediately to arrange to repay the monies.

Should you fail to reply to this letter by December 26, 2002, we will be referring this overpayment to a collection agency to commence collection efforts against you for the recovery of the adjusted plan benefits due the Plan and MetLife. We urge you to contact us at the number listed below. This matter is on an urgent status and requires your prompt attention.

Sincerely,

Nancy Perry
Offset Recovery Unit
Met Disability
800-300-4296 ext. 1761

Metropolitan Life Insurance Company
PO Box 14590, Lexington, KY 40511-4590

Met Disability **MetLife**

August 28, 2002

Wanda Glenn
2566 Sonata Drive,
Columbus, OH 43209

**RE: Long Term Disability**
**Group #: 31003**
**Claim #: 690008108949**

Dear Ms. Glenn:

We have reviewed your July 26, 2002 request to reopen your Long-Term Disability claim. We have completed our evaluation of your claim, which was conducted to determine your eligibility for continued Long-Term Disability benefits. Your claim has already been approved for Long-Term Disability benefits through September 16, 2002.

As part of the review process, we obtained additional information from you, and from the Ohio State University Medical Center.

Your plan states:

To receive benefits from the Plan, you must be Totally Disabled. As used in the Plan, the term "Total Disability" has two definitions:

1. During the Waiting Period and for the next 24 consecutive months, "Total Disability" means that because of Illness or Injury, you cannot perform the material duties of your own job.

2. After that time period, you will no longer be considered Totally Disabled unless you are totally incapable of performing the material duties of any gainful occupation for which you are reasonably qualified based on your training, education, and experience.

All of the medical documentation that we have received from your cardiologist, Dr. Rajendra Patel, was extensively reviewed.

The Attending Physician's Statements and office notes from Dr. Patel indicated that you were disabled beginning April 30, 2000, due to idiopathic cardiomyopathy, shortness of breath, and fatigue.

As of November 2, 2001, you had an ICD device in place. You had better exercise tolerance than before. From overall evaluation, you seemed to be clinically stable.

On January 9, 2002, Dr. Patel stated that you could do the following activities: occasionally lift and carry up to twenty pounds, perform bilateral repetitive foot and hand movements, and occasionally bend, squat, and reach above shoulder level.

As of February 5, 2002, you showed an ejection fraction of 35 to 40%.

On March 13, 2002, Dr. Patel stated that in an eight-hour work day, you were capable of sitting eight hours, standing four hours, and walking two hours. There were no current physical-barriers preventing you from returning to fulltime work.

Dr. Patel advised us on June 12, 2002, that in an eight-hour work day, you could sit for eight hours, stand for four hours, and walk for 2 to 4 hours. You could occasionally lift/carry up to ten pounds, and use

your hands and feet for repetitive actions. You could frequently bend and squat, and occasionally reach above shoulder level. Your functional limits included no emotional stress and heavy exertion.

Your June 18, 2002 examination showed an ejection fraction of 35 to 40%.

We have also reviewed medical reports from April 24, 2002 and July 10, 2002, which indicated that each defibrillator evaluation was normal. The capture and sensing thresholds were appropriate. There were no detections or therapies delivered by the ICD. Each report stated that the ICD battery is now showing significant wear and is likely in the last year of service before replacement will be needed. The July 10, 2002 report indicated that the ICD was reprogrammed to final settings reflective of appropriate safety margins, and optimized to battery efficiency.

The records submitted support stable cardiac status with no recent detections or therapies delivered by the ICD. If the ICD battery change becomes necessary within the near future, there should be an uncomplicated recovery of a few weeks duration.

There is no supportive medical documentation of the exacerbation of your cardiac condition and symptomology, due to subjective complaints of work related stress. The records submitted for review do not support cardiovascular impairment that would prevent you from performing full time sedentary level work.

Therefore, the information submitted on appeal does not change the previous finding that you are capable of performing full time sedentary work.

We previously advised you that on July 10, 2002, your file was referred to our Vocational Rehabilitation Coordinator, who performed a Transferable Skills Analysis that identified positions in your geographic area, which we felt you would be capable of performing. A Transferable Skills Analysis is a system that determines a persons potential for alternative work given their physical abilities, education, and work history. A Transferable Skills Analysis was conducted on your behalf and based on your Training, Education and Experience and your Restrictions and Limitations, you are qualified to perform the following occupations at a sedentary exertion level:

- Account Information Clerk DOT# 210.367-010
- Attendance Clerk DOT# 219.362-014
- Classified Ad Clerk DOT# 247.367-010

The full description of these positions can be found in the Dictionary of Occupational Titles, in any public library.

Based on the above information, we are unable to grant further Long-Term Disability benefits based upon medical evidence that does not support your inability to return to any occupation, as defined in the Sears Long-Term Disability plan.

MetLife reserves all of its rights or defenses either expressly stated or implied.

*You may appeal this decision by sending a written request for appeal to MetLife Disability, PO Box 14592, Lexington KY, 40511-4592 within 180 days after you receive this denial letter. Please include in your appeal letter the reason(s) you believe the claim was improperly denied, and submit any additional*

*comments, documents, records or other information relating to your claim that you deem appropriate for us to give your appeal proper consideration. Upon request, MetLife will provide you with a copy of the documents, records, or other information we have that are relevant to your claim and identify any medical or vocational expert(s) whose advice was obtained in connection with your claim.*

*MetLife will evaluate all the information and advise you of our determination of your appeal within 45 days after we receive your written request for appeal. If there are special circumstances requiring additional time to complete our review, we may take up to an additional 45 days, but only after notifying you of the special circumstances in writing. In the event your appeal is denied in whole or in part, you will have the right to bring a civil action under Section 502(a) of the Employee Retirement Income Security Act of 1974.*

Should you have any questions or concerns, please contact us.

Sincerely,

Earl Chesler
Case Management Specialist
MetLife Disability
(888) 868-3997
Fax: (866) 690-1264

Metropolitan Life Insurance Company **MetLife**
PO Box 14590, Lexington, KY 40511-4590

Met Disability

August 8, 2002

Wanda Glenn
2566 Sonata Drive,
Columbus, OH 43209

RE: Long Term Disability
Claim No: 690008108949
Group No: 31003
S.S. No: [OMITTED]

Dear Ms. Glenn:

Thank you for your reimbursement check dated July 20, 2002 in the amount of $12,600.50. It has been applied toward your overpayment, leaving a current balance of $902.00.

Per our telephone conversation today, we will withhold $451.00 from your August and September 2002 benefits to satisfy the overpayment balance.

Sincerely,

Nancy Perry
Overpayment Unit
Met Disability
800-300-4296 ext. 1761

July 26, 2002

Mr. Earl Chesler
Case manager specialist
Med life Disability
P.O Box 14592
Lexington, KY
40511-4592

RE: Appeal

Dear Mr. Earl Chesler,

I have just received your letter dated 7-15-02 denying me further long-term disability.

Disappointment is not a strong enough word to describe what I feel. I do not dispute the fact that since receiving the new N-Sync Pacemaker/Defibrillator, my condition has slightly improved. With the new device, I still experience bad days when it is impossible for me to perform even the simplest task of getting out of bed.

I was a manager at Sears therefore I know that an employee must be dependable in order to maintain employment. I know I cannot be a dependable employee when I continue to have these bad days. If you look into my work history any supervisor will confirm without a doubt I was very dependable, dedicated employee and gave 100% of myself to any job.

The damage to my heart, I am told is permanent. It is stressful to have to accept this as a part of my life that will probably never change. However, if I am forced to go back to work and have to call off 3 to 4

times a month, go to work and leave early or become ill on the job. It is hard to imagine the stress that I would be under.

I am not a lazy person and I am not asking for a hand out. I ask that you review what I have written along with the letter from Dr. Patel. This state I should not be forced to return to any type of employment. Overturn your denial and grant me further long-term disability.

Enclosed you will find documents from Dr. Patel, Kennedy and Associate, Social security and OSU pace maker clinic for proper consideration.

Sincerely,

/s/

Wanda Glenn

## CARDIOVASCULAR ASSOCIATES, P.C.

Berton L. London, M.D., F.A.C.P., F.A.C.C.
Oswald Bostic, M.D., F.R.C.P. (C)
Juan C. Rojas, M.D.
Luis Osterberger, M.D.
Vijay Kudesia, M.D., F.A.C.C.
Antonio P. Carrillo, M.D., F.A.C.C.
Chandrakant Pujara, M.D., F.A.C.C.
Samer Salka, M.D., F.A.C.C.
Eduardo Garcia, M.D., F.A.C.C., F.A.C.F.
Syed A. Mahmood, M.D., F.A.C.C.

27177 Lahser Road, Suite 103
Southfield, Michigan 48034
Telephone: (248) 357-1380
Fax: (248) 357-1745

27472 Schoenherr, Suite 140
Warren, Michigan 48088
Telephone: (586) 778-2950
Fax: (586) 778-3240

4020 Venoy Road, Suite 200
Wayne, Michigan 48184
Telephone: (734) 729-6710
Fax: (784) 729-6715

May 2, 2003

UNIVAL Center
2890 Carpenter Road, Suite 1400
P.O. Box 130770
Ann Arbor, Michigan 48113-0770

Re: Glen, Wanda
CLAIM #: 690008108949
SSN: [OMITTED]
EMPLOYER: Sears Roebuck & Co.
MY LICENSE #: 036190

To UNIVAL administration:

I had the opportunity to review the medical records of Ms. Wanda Glen at your request. Ms. Glen is a 50-year-old African-American female who is from Columbus, Ohio, and was employed at Sears Roebuck Corporation since March 1990. The patient has been on medical disability as recommended by her attending Cardiologist, Dr. Raj Patel since April 30, 2000. She was originally seen by Dr. Patel in 1989 when she presented with ventricular fibrillation. She was seen in the emergency room. At that time she

had extensive cardiac workup and she was diagnosed to have idiopathy dilated cardiomyopathy. She had left ventricular ejection fraction in the range of 25-30%. Her coronary arteries were normal. Automatic intracardiac defibrillator was prophylactically implanted subsequently. The patient is being followed regularly by Dr. Patel and her primary care physician, Dr. Chin, in Ohio. The patient has been having easy fatigue and occasional palpitations along with exertional dyspnea. The patient had has electrophysiological evaluation and original AICD was replaced. The patient had biventricular pacemaker implanted at that time. The patient has been on medical regimen, which includes Zestril, Lasix, potassium supplement, Normodyne, Lanoxin, as well as calcium supplement. The patient's ejection fraction indeed has improved with medical therapy and probably with biventricular pacing as well. Clinically, the patient has improved and has been relatively free of any significant cardiac decompensation as documented by Dr. Patel's follow-up notes. The patient had also undergone adenosine Cardiolite stress study and 2-D echocardiogram, which failed to reveal any evidence of reversible ischemia and the left ventricular ejection fraction has come up to 40-45%. The patient claims that she is unable to bear any kind of psychological or physical stress. The patient's vocational training and work experience has been, according to the dictionary of occupational titles, to be described as manager of the department store and she has also functioned as a safe manager, sales representative and audit clerk. The patient's physical restrictions and limitations as described by Dr. Patel on June 12, 2002, indicated that she was capable of sitting for eight hours, standing for four hours, walking for two to four

hours, ability to lift and carry up to ten pounds occasionally, inability to perform bilateral upper extremity movements, ability to bend and squat frequently, inability to crawl, climb, being unprotected heights and moving machinery. Dr. Patel had also noted additional restrictions and limitations as no emotional stress or heavy exertion.

In view of the patient's diagnosis of dilated cardiomyopathy with complex ventricular arrhythmias requiring medical management, which includes diuretics, beta-blockler, AC6 inhibitor, and potassium supplement along with device management including AICD and biventricular pacing, the patient certainly is not able to do any exertional physical activity. However, based on the information provided, Ms. Glen was deemed capable of sedentary activity as per the U.S. Department of Labor guidelines. I understand that alternative occupational classes were offered, which included account information clerk, attendance clerk, or classified ad clerk. The actual impact of any form of real or perceived emotional stress on cardiac arrhythmias, or cardiomyopathy is difficult to gauge in an individual patient. However, based on Dr. Patel's own physical capacity evaluation on June 12, 2002, the patient seems to be a reasonable candidate to try one of the sedentary job classes at least on a trial basis. If the job environment entails significant degree of emotional stress, and the patient is not able to cope with that, then certainly permanent disability can be considered. Based on the information, which is available in the medical records provided to me, it appears to me that with the appropriate medical management and biventricular pacing, the patient has achieved a relatively stable cardiac status. Her left ventricular ejection fraction has also significantly

improved and in spite of the history of ventricular arrhythmias in the past, the patient's defibrillator had fired only once and that too probably wrongfully on the basis of sinus tachycardia. In any event, the patient's work capacity should improve with the biventricular pacing as well as evidenced by the recent clinical trials using the cardiac recent conization therapy in her type of patients.

If any further information is desired, please do not hesitate to contact me.

With best regards,

/s/
Chandrakant Pujara, M.D., F.A.C.C.

CP:EMT:21

**CAPITOL CITY CARDIOLOGY**

Main Office * 423 East Town Street * Columbus, Ohio 43225 * Phone 814/444-0884 800/479-6802* Fax 614/464-3440
Grove City Office * 2041 Strongtown Road * Grove City, Ohio 43123 * Phone 614/545-0101 * Fax 614/545-0107
Pickerington Office * 641 Hill Road North * Pickerington, Oho 43147 * Phone 614/920-3410 * Fax 614/920-3413
Lancaster Office * 2405 North Columbus Street * Lancaster, Ohio 43130 * Phone 740/653-7511 * Fax 740/655-7512

Richard M. Bardales, MD
Barney B. Beaver, DO
Sandeep Chopra, MD
Michael J. Meleca, MD
Charles W. Noble, II, MD
Rajendra C. Patel, MD
Reuben A. Sheares, MD
Shantanu Sinha, MD

February 12, 2003

Mr. Stanley Myers, Attorney at Law
221 S. High Street
Columbus, OH 48215-4503

**RE: Wanda Glenn (DOB: 12/11/52)**

Dear Mr. Meyers

Thank you for your correspondence dated January 29, 2003, regarding Wanda Glenn's disability issue. In summary, Wanda is a known patient to me. Initially she was seen by me in 1989 when she presented to the hospital with cardiac arrest and ventricular fibrillation. At that time she was worked up extensively and was diagnosed as having idiopathic dilated cardiomyopathy. She underwent prophylactic implantation of a defibrillator. Since then she has been followed up by me with symptoms related to left ventricular diastolic dysfunction and cardiomyopathy. Her ejection fraction has varied from 30% to as high as 40-45%. The patient had recurrent episodes of chest pains, and in March 2000, she underwent another coronary angiography at Grant Medical Center. At

that time she did not have any coronary obstructive disease, however her left ventricular systolic function was severely impaired. At that time the ejection fraction came out as low as 20-25%. The patient also has been in the emergency room at University Hospitals on one occasion because of firing of her defibrillator device from sinus tachycardia.

The patient has been on multiple medications for her dilated cardiomyopathy. The patient has continued to have difficulty in terms of her exercise intolerance, general fatigue and tiredness. Apparently, after the initial event the patient was on temporary disability, and at that time was advised to seek social security. She was given social security benefits at that time and has not worked since then.

Previous reports filled out by me state that the patient was fit for sedentary work, however based on her clinical condition and her symptomatology, there was never a time where I felt that this patient would be able to return to full-time employment. I strongly believe that employment would put significant stress on her overall system, and she may decompensate. Ms. Glenn does not have any emotional condition that causes her cardiac problems. She has a cardiac problem that is exacerbated by any kind of stress.

My position is that she should be considered completely disabled, mainly from her cardiomyopathy and associated symptoms from her LV dysfunction. It is to be noted that the ICD device that she has is meant to provide defibrillation in case of ventricular fibrillation or sudden cardiac death. This device has no role in terms of improving her cardiac function.

Please do not hesitate to call me if I can provide any further information or discussion to clarify the issues raised by her insurance carrier.

Sincerely,

/s/
Rajendra C. Patel, MD, FACC
Dictated, but not read.
RCP/sat

**CAPITOL CITY CARDIOLOGY**

Main Office * 423 East Town Street * Columbus, Ohio 43225 * Phone 814/444-0884 800/479-6802* Fax 614/464-3440
Grove City Office * 2041 Strongtown Road * Grove City, Ohio 43123 * Phone 614/545-0101 * Fax 614/545-0107
Pickerington Office * 641 Hill Road North * Pickerington, Oho 43147 * Phone 614/920-3410 * Fax 614/920-3413
Lancaster Office * 2405 North Columbus Street * Lancaster, Ohio 43130 * Phone 740/653-7511 * Fax 740/655-7512

Richard M. Bardales, MD
Barney B. Beaver, DO
Sandeep Chopra, MD
Michael J. Meleca, MD
Charles W. Noble, II, MD
Rajendra C. Patel, MD
Reuben A. Sheares, MD

July 22, 2002

**RE: Wanda Glenn (DOB: 12-11-52)**

To Whom It May Concern:

Ms. Wanda Glenn has been a patient known to me. This is a patient that has dilated cardiomyopathy as well as history of ventricular tachycardia requiring an implantable defibrillator device. The patient has been on multiple medications for her dilated cardiomyopathy. The patient continues to have significant difficulty with exertional shortness of breath on any kind of moderate exertion. She also continues to have significant difficulty in returning to even any kind of sedentary job because any kind of psychologic stress at work causes significant problems with her cardiovascular condition and she decompensates fast. This has happened on multiple occasions in the past. The patient has tried to return to work in the past with exacerbation of her symptoms as well as exacerbation of her condition.

At the present time, I do not believe Wanda should be forced to return to any kind of even sedentary work particularly because it is the psychologic stress

of work that really exacerbates her cardiovascular condition and symptomatology. The patient basically should be considered completely disabled from her dilated cardiomyopathy as well as history of ventricular tachycardia.

Please do not hesitate to call me if I could provide any further details or further discussion in this matter. With best regards.

Sincerely,

/s/
Rajendra C. Patel, MD, FACC
Dictated, but not reviewed.
RCP/clo

**CAPITOL CITY CARDIOLOGY**

Main Office * 423 East Town Street * Columbus, Ohio 43225 * Phone 814/444-0884 800/479-6802* Fax 614/464-3440
Grove City Office * 2041 Strongtown Road * Grove City, Ohio 43123 * Phone 614/545-0101 * Fax 614/545-0107
Pickerington Office * 641 Hill Road North * Pickerington, Oho 43147 * Phone 614/920-3410 * Fax 614/920-3413
Lancaster Office * 2405 North Columbus Street * Lancaster, Ohio 43130 * Phone 740/653-7511 * Fax 740/655-7512

Richard M. Bardales, MD
Barney B. Beaver, DO
Sandeep Chopra, MD
Michael J. Meleca, MD
Charles W. Noble, II, MD
Rajendra C. Patel, MD
Reuben A. Sheares, MD

June 18, 2002

**RE: Wanda Glenn (DOB: 12-11-52)**

Choo Y Rhee, MD
1492 E Broad St #1604
Columbus OH 43205

Dear Choo:

Ms. Glenn was back in our office earlier than expected. The patient complains of general tiredness and she says she has gained weight. She describes exercise intolerance and shortness of breath on moderate exertion.

Physical examination today, however, revealed no evidence of JVD or carotid bruits. Lungs are bilaterally clear. Cardiac auscultation revealed a regular rhythm with an S4 gallop. Abdomen was benign. Extremities revealed no ankle edema and good pedal pulses.

Electrocardiogram shows sinus rhythm with P tracking pacemaker functioning normally. If you recall, the 2D echocardiogram in December of this year showed an ejection fraction of 35 to 40%.

I believe most of her exercise intolerance is from dilated cardiomyopathy.

At the present time, in the absence of any overt congestive heart failure, I have decided to hold off on any further imaging or another echocardiogram. I have advised her to continue her current medications. There is also significant anxiety on her part regarding the disability and having to return to work. From my standpoint, again, considering her cardiomyopathy, I do not believe she will handle any kind of stress well at her work and she would be better off being on disability. I will keep you posted regarding her progress.

I deeply appreciate the opportunity to participate in her care.

Sincerely,

/s/
Rajendra C. Patel, MD, FACC
Dictated, but not read.
RCP/bjj

**CAPITOL CITY CARDIOLOGY**

Main Office * 423 East Town Street * Columbus, Ohio 43225 * Phone 814/444-0884 800/479-6802* Fax 614/464-3440
River View Medical Office * 2405 North Columbus Street, Suite 130 * Lancaster, Ohio 43130 * 740-653-7511 * Fax 740/653-7512
Grove City Office * 2041 Strongtown Road * Grove City, Ohio 43123 * Phone 614/545-0101 * Fax 614/545-0107

Bruce L. Auerbach, MD
Richard M. Bardales, MD
Barney B. Beaver, DO
Reuben A. Sheares, III, MD
Michael J. Meleca, MD
Charles W. Noble, II, MD
Rajendra C. Patel, MD

April 30, 2002

Choo Y Rhee, MD
1492 E Broad St #1604
Columbus OH 43205

**RE: Wanda Glenn (DOB: 12-11-52)**

Dear Choo:

Ms. Glenn was back in our office today for cardiac followup. Since her last visit she has had no further ICD shocks. As you recall, she still gets extremely short of breath, particularly under any kind of emotional stress as well as any kind of significant or heavy exertion. Fortunately she remains free of any PND, orthopnea, or leg edema.

Current medications include: Lasix, KCI, Lanoxin, Norvasc, aspirin, calcium, Normodyne, Diovan and Plavix. She had an ICD interrogation and the ICD battery is coming to it end of life. She has been scheduled for ICD revision and at that time they are also planning to move the power pack device away from the breast tissue.

From a cardiac standpoint, her physical examination revealed no evidence of JVD or carotid bruits. Lungs

are bilaterally clear. Cardiac auscultation revealed regular rhythm with an S4 gallop. Abdomen and extremities were unremarkable. Blood pressure was 140/80.

At the present time I have advised Wanda to continue current medications, continue her ICD follow-up with Dr. Chuck Lowe at Ohio State and from a cardiac standpoint I plan to see her back in four months.

I deeply appreciate the opportunity to participate in her care.

Sincerely,

/s/
Rajendra C. Patel, MD, FACC
Dictated, but not read.
RCP/bjj

**CAPITOL CITY CARDIOLOGY**
Main Office * 423 East Town Street * Columbus, Ohio 43225 * Phone 814/444-0884 800/479-6802* Fax 614/464-3440
River View Medical Office * 2405 North Columbus Street, Suite 130 * Lancaster, Ohio 43130 * 740-653-7511 * Fax 740/653-7512
Grove City Office * 2041 Strongtown Road * Grove City, Ohio 43123 * Phone 614/545-0101 * Fax 614/545-0107

Bruce L. Auerbach, MD
Richard M. Bardales, MD
Barney B. Beaver, DO
Reuben A. Sheares, III, MD
Michael J. Meleca, MD
Charles W. Noble, II, MD
Rajendra C. Patel, MD

February 5, 2002

Choo Y. Rhee, MD
1492 E Broad St #1604
Columbus, OH 43205

**RE: Wanda Glenn (DOB: 12-11-52)**

Dear Choo:

Ms. Glenn was back in our office today for cardiac follow-up. In November or December, she was seen at Mount Carmel East with symptoms of TIA and was started on Plavix over and above her aspirin. Also, last month she was seen at Ohio State University Hospital main campus because of ICD shock. At that time, the ICD interrogation apparently showed some form of sinus tachycardia. She was seen by a cardiology fellow over there and somehow the information was passed on to the emergency room physician who was advised to start the patient on beta blockers. Interestingly enough, I am not sure whether anybody looked into the chart in detail. Ms. Glenn is already on Normodyne 200 mg po BID. Fortunately, she has had no further shocks. She continues to have exertional shortness of breath on any kind of emotional excitement or any

kind of significant physical exertion A 2-D echocardiogram in December shows the LV dysfunction being progressive. Ejection fraction again has gone back down to 35-40%. I have advised Ms. Glenn at the present time to go to see Dr. Chuck Love at Ohio State regarding her ICD adjustment. Meanwhile, from a cardiac standpoint I have advised her to continue her current medications, including Lasix, potassium, Lanoxin, Norvasc, aspirin, calcium, Normodyne, and Diovan, as well as Plavix. She did have some questions about all her medications, particularly since she is going to face the jury and the court regarding the long-term disability, and I gave her an extensive idea about her medications as well as her current heart condition. From a cardiac standpoint, I plan to see her back in three months.

I deeply appreciate the opportunity to participate in her care.

Sincerely,

/s/

Rajendra C. Patel, MD, FACC
Dictated, but not read.
RCP/sem

Metropolitan Life Insurance Company **MetLife**
PO Box 14590, Lexington, KY 40511-4590

**MetLife Disability**

June 5, 2002

Dr. Raj Patel
423 E. Town St.
Columbus, OH 43215

**RE: Wanda Glenn**
**DOB: 12/11/52**
**Claim #: 690008108949**

Dear Dr. Patel:

Thank you for the information you have provided for your patient **Wanda Glenn**. At this time we are in need of additional medical information so that we may proceed with our evaluation of the claim. We would appreciate your assistance in providing us with the following:

**Please complete and return the enclosed Physical Capacities Evaluation. Also, please send us photocopies of the medical records from November 3, 2001 through current, including test res lts, medication flowcharts, and physical therapy notes. This information needs to be faxed to my attention, with the claim number on the fax cover sheet.**

Please fax above to my attention at: 866/690-1264.

Enclosed you will find a signed authorization from our claimant. We look forward to your prompt response. If there will be a fee for your service, please enclose with your tax ID#.

If you have any questions, please contact our Customer Response Center at 888/868-3997.

Sincerely,
/s/
Earl Chesler
Case Management Specialist

**MetLife**

## Physical Capacities Evaluation

Name of Claimant: Wanda Glenn  Birth Date: 12/11/52

**Important:** Please complete the following items based on your clinical evaluation of the claimant and other testing results. Any items that you do not believe you can answer should be marked n/a (not answerable).

**Note:** In terms of an 8 hour workday "occasionally" equals 0% to 33%; "frequently," 34% to 66%; "continuously," 67% to 100%

I. In an 8-hour workday, claimant, can: (Circle full capacity for each activity)

A.) Sit - No - 1 2 3 4 5 6 7 **8** (hrs.)

B.) Stand - No - 1 2 3 **4** 5 6 7 8 (hrs.)

C.) Walk - No - 1 **2 3 4** 5 6 7 8 (hrs.)

---

| II. Claimant can lift | Never | Occasionally | Frequently | Continuously |
|---|---|---|---|---|
| A.) Up to 10 lbs. | (___) | (__√__) | (_____) | (_____) |
| B.) 11-20 lbs. | (__√__) | (_____) | (_____) | (_____) |
| C.) 21-50 lbs. | (__√__) | (_____) | (_____) | (_____) |
| D.) 51-100 lbs. | (__√__) | (_____) | (_____) | (_____) |
| E.) 100 + lbs | (__√__) | (_____) | (_____) | (_____) |

---

| III. Claimant can carry | Never | Occasionally | Frequently | Continuously |
|---|---|---|---|---|
| A.) Up to 10 lbs. | (___) | (__√__) | (_____) | (_____) |
| B.) 11-20 lbs. | (__√__) | (_____) | (_____) | (_____) |
| C.) 21-50 lbs. | (__√__) | (_____) | (_____) | (_____) |
| D.) 51-100 lbs. | (__√__) | (_____) | (_____) | (_____) |
| E.) 100 + lbs | (__√__) | (_____) | (_____) | (_____) |

IV. Claimant can use hands for repetitive action such as:

| | Simple Grasping | Pushing & Pulling | Fine Manipulating |
|---|---|---|---|
| A.) Right | (√) Yes ( ) No | (√) Yes ( ) No | (√) Yes ( ) No |
| B.) Left | (√) Yes ( ) No | (√) Yes ( ) No | (√) Yes ( ) No |

V. Claimant can use feet for repetitive movements as in operating foot controls:

| Right | Left | Both |
|---|---|---|
| (√) Yes ( ) No | ( ) Yes ( ) No | ( ) Yes ( ) No |

---

| VI. Claimant is able to: | Not at all | Occasionally | Frequently | Continuously |
|---|---|---|---|---|
| A.) Bend | ( ) | ( ) | (√) | ( ) |
| B.) Squat | ( ) | ( ) | (√) | ( ) |
| C.) Crawl | (√) | ( ) | ( ) | ( ) |
| D.) Climb | (√) | ( ) | ( ) | ( ) |
| E.) Reach above shoulder level | ( ) | (√) | ( ) | ( ) |

---

| VII. Restriction of activities involved | None | Mild | Moderate | Total |
|---|---|---|---|---|
| A.) Unprotected heights | ( ) | ( ) | ( ) | (√) |
| B.) Being around moving machinery | ( ) | ( ) | ( ) | (√) |
| C.) Exposure to marked changes in temperature or humidity | ( ) | ( ) | (√) | ( ) |
| D.) Driving automative equipment | ( ) | ( ) | (√) | ( ) |
| E.) Exposure to dust, fumes & gases | ( ) | ( ) | (√) | ( ) |

Remarks (on above, on other functional limitations):
No emotional stress / no heavy exertion

Date 6/12/02 Signature of Physician /s/

Please mail directly to: Metropolitan Life Insurance Company
P.O. Box 14590
Lexington, KY 40511

Metropolitan Life Insurance Company

**MetLife**

**MetLife Disability, PO Box 14590,**
**Lexington, KY 40511-4590**
**Phone: 1-888-888-3997**
**Fax: 1-647-391-1727**

March 12, 2002

Dr. Rajendra [illegible]. Patel
Capitol City
Cardiology
423 E. Town Street
Columbus, OH 43215

**Re: Wanda Glenn**
**Claim # 69008910849**
**SS# [OMITTED]**

Dear Dr. Patel,

MetLife Disability Insurance is currently administering Long-Term Disability benefits for your patient, Ms. Wanda Glenn. We are evaluating her ability to resume a functional lifestyle and her ability to return to fulltime work within her capabilities. To complete our assessment we need your input and kindly ask that you complete the following in consideration of full-time work.

On the Physical Capacities Evaluation form dated January 9, 2002, you have indicated Ms. Glenn's ability as the following:

- lift and carry up to twenty pounds occasionally
- ability to perform bilateral repetitive foot and hand movements

- restriction from unprotected heights, being around machinery, dust, fumes and temperature changes.

- Please indicate Ms. Glenn's full capacity to perform sitting, standing or walking in an eight-hour day.

  Sitting 8 # of hours
  Standing 4 # of hours
  Walking 2 # of hours

- Do you believe Ms. Glenn is able to work in a sedentary physical exertion level occupation?

  X Yes ___ No

- With or without accommodations? Please describe

---

- If No, please explain current physical barriers preventing Ms. Glenn from returning to fulltime.

N/A

/s/ 3/13/02

Physician Signature Date

If you have any questions call me at 1-888-868-3997, extension 3337. My office hours are Monday through Friday 8:00 A.M. to 4:30 P.M., CST.

Sincerely,

Lisa Hissem, MS, CRC
Vocational Rehabilitation Consultant

**MetLife**

# Physical Capacities Evaluation

Name of Claimant: Wanda Glenn  Birth Date: 12/11/52

**Important:** Please complete the following items based on your clinical evaluation of the claimant and other testing results. Any items that you do not believe you can answer should be marked n/a (not answerable).

**Note:** In terms of an 8 hour workday "occasionally" equals 0% to 33%; "frequently," 34% to 66%; "continuously," 67% to 100%

I. In an 8-hour workday, claimant, can: (circle full capacity for each activity)

A.) Sit - No - 1 2 3 4 5 6 7 8 (hrs)

B.) Stand - No - 1 2 3 4 5 6 7 8 (hrs)

C.) Walk - No - 1 2 3 4 5 6 7 8 (hrs)

---

| II. Claimant can lift | Never | Occasionally | Frequently | Continuously |
|---|---|---|---|---|
| A.) Up to 10 lbs. | ( ) | (√) | ( ) | ( ) |
| B.) 11-20 lbs. | ( ) | (√) | ( ) | ( ) |
| C.) 21-50 lbs. | (√) | ( ) | ( ) | ( ) |
| D.) 51-100 lbs. | (√) | ( ) | ( ) | ( ) |
| E.) 100 + lbs | (√) | ( ) | ( ) | ( ) |

---

| III. Claimant can carry | Never | Occasionally | Frequently | Continuously |
|---|---|---|---|---|
| A.) Up to 10 lbs. | ( ) | (√) | ( ) | ( ) |
| B.) 11-20 lbs. | ( ) | (√) | ( ) | ( ) |
| C.) 21-50 lbs. | (√) | ( ) | ( ) | ( ) |
| D.) 51-100 lbs. | (√) | ( ) | ( ) | ( ) |
| E.) 100 + lbs | (√) | ( ) | ( ) | ( ) |

---

IV. Claimant can use hands for repetitive action such as:

| | Simple Grasping | Pushing & Pulling | Fine Manipulating |
|---|---|---|---|
| A.) Right | (√) Yes ( ) No | (√) Yes ( ) No | (√) Yes ( ) No |
| B.) Left | (√) Yes ( ) No | (√) Yes ( ) No | (√) Yes ( ) No |

V. Claimant can use feet for repetitive movements as in operating foot controls:

| Right | Left | Both |
|---|---|---|
| (√) Yes ( ) No | (√) Yes ( ) No | (√) Yes ( ) No |

VI.

| Claimant is able to: | Not at all | Occasionally | Frequently | Continuously |
|---|---|---|---|---|
| A.) Bend | ( ) | (√) | ( ) | ( ) |
| B.) Squat | ( ) | (√) | ( ) | ( ) |
| C.) Crawl | (√) | ( ) | ( ) | ( ) |
| D.) Climb | (√) | ( ) | ( ) | ( ) |
| E.) Reach above shoulder level | ( ) | (√) | ( ) | ( ) |

VII.

| Restriction of activities involved | None | Mild | Moderate | Total |
|---|---|---|---|---|
| A.) Unprotected heights | ( ) | ( ) | ( ) | (√) |
| B.) Being around moving machinery | ( ) | ( ) | ( ) | (√) |
| C.) Exposure to marked changes in temperature or humidity | ( ) | ( ) | ( ) | (√) |
| D.) Driving automative equipment | ( ) | ( ) | ( ) | (√) |

| | | | | |
|---|---|---|---|---|
| E.) Exposure to dust, fumes & gases | (___) | (___) | (_____) | (√) |

Remarks (on above, on other functional limitations):
More LF dysfunction noted on recent Echo.

Date 1/9/02 Signature of Physician /s/

Please mail directly to: Metropolitan Life Insurance Company
P.O. Box 14590
Lexington, KY 40511

**CAPITOL CITY CARDIOLOGY**

Main Office * 423 East Town Street * Columbus, Ohio 43225 * Phone 814/444-0884 800/479-6802* Fax 614/464-3440
River View Medical Office * 2405 North Columbus Street, Suite 130 * Lancaster, Ohio 43130 * 740-653-7511 * Fax 740/653-7512
Grove City Office * 2041 Strongtown Road * Grove City, Ohio 43123 * Phone 614/545-0101 * Fax 614/545-0107

Bruce L. Auerbach, MD
Richard M. Bardales, MD
Barney B. Beaver, DO
Reuben A. Sheares, III, MD
Michael J. Meleca, MD
Charles W. Noble, II, MD
Rajendra C. Patel, MD

November 2, 2001

Choo Y Rhee, MD
1492 E Broad St #1604
Columbus OH 43205

**RE: Wanda Glenn (DOB: 12/11/52)**

Dear Choo:

Ms. Glenn was back in our office today for cardiac followup. As you know, she is a 48-year-old female with severe dilated cardiomyopathy as well as a previous history of cardiopulmonary arrest and sudden cardiac death from which she was successfully resuscitated. She now has an ICD in place along with biventricular or InSync pacing.

If you recall, last March a 2D echocardiogram showed some improvement in her LV function. She continues to have better exercise tolerance than before. She, however, still gets fatigued out and short of breath, particularly if she is under any kind of significant psychologic stress. She denied any PND, orthopnea or leg edema.

Physical examination today revealed no evidence of jugular venous distention or carotid bruits. Lungs

were bilaterally clear. Cardiac auscultation revealed a regular rhythm with an S4 gallop. Abdomen was benign. Extremities revealed no ankle edema and good pedal pulses.

Electrocardiogram shows sinus rhythm with mild resting sinus bradycardia at a rate of about 90 beats per minute with InSync dual-chamber pacing.

From overall evaluation, Wanda seems to be clinically stable and I have advised her to continue her current regimen including Lasix, potassium, Lanoxin, Norvasc, aspirin, calcium, Normodyne and Diovan. If you recall, she could not take Zestril because of a significant cough.

I plan to see her back in three months.

I deeply appreciate the opportunity to participate in her care.

Sincerely,

/s/
Rajendra C. Patel, MD, FACC
Dictated, but not read.
RCP/bjj

# CAPITOL CITY CARDIOLOGY

Main Office * 423 East Town Street * Columbus, Ohio 43225 * Phone 814/444-0884 800/479-6802* Fax 614/464-3440
River View Medical Office * 2405 North Columbus Street, Suite 130 * Lancaster, Ohio 43130 * 740-653-7511 * Fax 740/653-7512
Grove City Office * 2041 Strongtown Road * Grove City, Ohio 43123 * Phone 614/545-0101 * Fax 614/545-C

Bruce L. Auerbach, MD
Richard M. Bardales, MD
Barney B. Beaver, DO
Reuben A. Sheares, III, MD
Michael J. Meleca, MD
Charles W. Noble, II, MD
Rajendra C. Patel, MD

August 3, 2001

Choo Rhee MD
1492 E Broad St #1604
Columbus OH 43205

**RE: Wanda Glenn (DOB: 12/11/52)**

Dear Choo:

Ms. Glenn was back in our office today for cardiac follow-up. As you know, she is a 48-year-old female with a history of dilated cardiomyopathy and now has an ICD in place along with biventricular pacing. Since her last visit she has had some social problems at home and is now going to divorce. Recently she has noted increasing fatigue and tiredness as well as exercise intolerance. Fortunately, however, she denied any PND, orthopnea or leg edema.

Physical examination today in my office revealed no evidence of jugular venous distention or carotid bruits. Lungs were bilaterally clear. Cardiac auscultation revealed a regular rhythm with an impressive S4 gallop. Abdomen and extremities were unremarkable. Blood pressure was 140/90.

Apparently she could not tolerate Zestril because of cough and she is now on Diovan.

From my standpoint she looks clinically well compensated. However, I am concerned about her increasing general fatigue which could be from all her psychosocial problems or there could be some involvement of her cardiac status causing her symptoms. At this stage, however, I have reassured her that I do not see any overt congestive heart failure. My inclination would be to see her back in three months. Depending on her clinical status at that time, we might consider another ultrasound to make sure that the LV function is not getting worse. I will keep you posted regarding her progress.

I deeply appreciate the opportunity to participate in her care.

Sincerely,

/s/
Rajendra C. Patel, MD, FACC
Dictated, but not read.
RCP/bjj

**MetLife**
**Attending Physician's Statement of Functional Capacity**

MetDisAbility
P.O. Box 3043
Utica, NY 13504-3043

The information provided is to be used for claims evaluation and auditing purposes only.
The patient is responsible for having this form completed without expense to Metropolitan or the Employer.

| Patient Name | | |
|---|---|---|
| First | Middle | Last |
| WANDA | | GLENN |
| Group Number<br>0031003 | | |
| Social Security #<br>[OMITTED] | | |

1. History and Diagnosis
   - A. Date symptoms first appeared/or accident occurred: 02-1-00
   - B. Date patient ceased work: 04-30-00
   - C. Date of most recent examination: 11-2-01
   - D. Frequency of visits: 2-3 months
   - E. Past history:
   - F. Subjective symptoms:
   - G. Objective findings (including test results):
   - H. Primary diagnosis affecting work ability:

     CMP – Idiopathic, SOB, fatigue, CHF,

Hypertension

I. Secondary diagnosis affecting work ability:

J. Present and future course of treatment:

K. Other known injuries or presently active diseases that may affect work abilities:

2. Does patient's medical condition allow exposure to the following; please check appropriate box and explain any limitation below:

| | No Limitation | Some Limitation | Avoid Completely | Cannot Determine |
|---|---|---|---|---|
| Dust/Gasses/Fumes | | | | |
| Chemicals/Solvents | | | | |
| Temperature Extremes | | See Attached | | |
| Noise Levels | | | | |
| Allergenic Agents | | | | |
| Stairs/Ladders | | | | |
| Scaffolds/Heights | | | | |
| Enclosed Spaces | | | | |
| Drafts/Damp Areas | | | | |

Explanation:

---

3. Because of the patient's medical conditions, are there any limitations on any of the following activities; please check appropriate box and explain any limitation below:

| | No Limitation | Some Limitation | Avoid Completely | Cannot Determine |
|---|---|---|---|---|
| Transportation | | | | |
| Standing | | | | |
| Sitting | | | | |
| Change of Position (sitting/standing) | | | | |

| | No Limitation | Some Limitation | Avoid Completely | Cannot Determine |
|---|---|---|---|---|
| Assuming Cramped/Unusual Positions | | | | |
| Reaching (forward/overhead) | | | | |
| Pushing/Pulling/Twisting (arm/leg controls) | | See Attached | | |
| Grasping/Handling | | | | |
| Finger Dexterity | | | | |
| Repetitive Movement (hands/feet) | | | | |
| Climbing (stairs/ladders/scaffolds) | | | | |
| Balancing (exposure to falling) | | | | |
| Bending/Stooping/Squatting | | | | |
| Operating Truck/Dolly/Small Vehicle | | | | |
| Operating Heavy Equipment | | | | |
| Operating Electrical Equipment | | | | |
| Concentrated Visual Attention | | | | |
| Other | | | | |

Explanation:

---

4. Evaluation of carrying and lifting abilities includes both the intensity and frequency of the activity. For each weight class listed below, please indicate the reasonable top limit of frequency. Please provide an explanation below

with any additional comments regarding limitations on duration, handlability and distance (in front of body and above floor).

| Intensity in Pounds | Frequency: Percentage of Workday | | | |
|---|---|---|---|---|
| | Never | Less than 20% | 20% - 60% | Greater than 60% |
| 0-15 | √ | | | |
| 16-30 | | | | |
| 31-45 | | | | |
| Greater than 45 | | | | |

Explanation:

---

5. Is there a past or present psychological problem that might interfere with the patient's ability to work? If yes, please list your findings according to the DMS-tti multiaodal classification.

Yes ☐ No ☐ Not Determined ☐

Explanation: See attached

---

6. If you have any additional information that is relevant to patient's work ability, please indicate below.

See attached

---

7. Progress Evaluation

☐ Recovered ☐ Improved ☐ Unimproved
☐ Retrogressed

(Please check appropriate box and explain below:)

Explanation:

8. Disability Evaluation

**Is patient now totally disabled?**

| For Any Occupation | | | For His/Her Occupation | | |
|---|---|---|---|---|---|
| Yes ☒ | No ☐ | Cannot Determine ☐ | Yes ☐ | No ☒ | Cannot Determine ☐ |

**If No, when was patient able to resume work activities?**

| For Any Occupation | | For His/Her Occupation | |
|---|---|---|---|
| _____ | Cannot Determine ☐ | _____ | Cannot Determine ☐ |

**If Yes, when do you think patient will be able to resume work activities:**

| | For Any Occupation | For His/Her Occupation |
|---|---|---|
| Approximate Date: | Never | |
| Indefinite: | | |
| Never: | | |
| Cannot Determine: | | |

| Raj Patel | MD | | |
|---|---|---|---|
| Name of Physician | Board Certified Specialty | | |
| 423 E. Town St | Cols. OH | 43215 | |
| Street Address | City or Town | State | |
| (614) 464-0884 | | /s/ | 12/19/01 |
| Telephone Number | Date | Signature | |

**CAPITOL CITY CARDIOLOGY**
Main Office * 423 East Town Street * Columbus, Ohio 43225 * Phone 814/444-0884 800/479-6802* Fax 614/464-3440
River View Medical Office * 2405 North Columbus Street, Suite 130 * Lancaster, Ohio 43130 * 740-653-7511 * Fax 740/653-7512
Grove City Office * 2041 Strongtown Road * Grove City, Ohio 43123 * Phone 614/545-0101 * Fax 614/545-0107

Bruce L. Auerbach, MD
Richard M. Bardales, MD
Barney B. Beaver, DO
Reuben A. Sheares, III, MD
Michael J. Meleca, MD
Charles W. Noble, II, MD
Rajendra C. Patel, MD

April 6, 2001

Choo Y. Rhee, M.D.
1492 E Broad St #1604
Columbus OH 43205

**RE: Wanda Glenn (DOB: 12/11/52)**

Dear Choo:

Ms. Glenn was in our office today, earlier than expected. As you know, she is a 48-year-old female with dilated cardiomyopathy, complex ventricular arrhythmias, and an ICD in place. The recent ICD change was combined with biventricular pacing, which is a new technique for patients with cardiomyopathy to improve the synchronized left ventricular wall motion. Ms. Glenn came in earlier to see us because she has been experiencing some general fatigue. Interestingly enough, she says that she is doing more than before; however, after she has done an activity, she feels tired for a day or so. Apparently she used to only walk two laps at the mall, and now she is walking four or more laps. She is also walking four or five times a week, rather than two to three times a week. She denies any exertional

angina, excessive shortness of breath, paroxysmal nocturnal dyspnea or orthopnea.

Physical examination revealed no jugular venous distention or carotid bruits. Lungs are bilaterally clear. Cardiac auscultation reveals regular rhythm with an S4 gallop. Abdomen and extremities are unremarkable. Blood pressure was 148/98.

Ms. Glenn was extremely concerned about her LV function and we did do a 2D echocardiogram on her, and this showed an left ventricular ejection fraction anywhere from 40% to 50%, which is much better than 30% which was seen on previous studies.

I am not sure whether the biventricular pacing has improved her ejection fraction, or whether she is clinically improving spontaneously. At the present time I have reassured her regarding the absence of any deterioration, and I have explained that her ejection fraction looks slightly better. I have advised her to continue her activity at the current level, trying to gradually increase it; however, she should not push herself beyond her limit.

I plan to see her back now in four months, and I deeply appreciate the opportunity to participate in her care.

Sincerely,

/s/

Rajendra C. Patel, MD, FACC
Dictated, but not read.
RCP/cjm

# CAPITOL CITY CARDIOLOGY

Main Office * 423 East Town Street * Columbus, Ohio 43225 * Phone 814/444-0884 800/479-6802* Fax 614/464-3440
River View Medical Office * 2405 North Columbus Street, Suite 130 * Lancaster, Ohio 43130 * 740-653-7511 * Fax 740/653-7512
Grove City Office * 2041 Strongtown Road * Grove City, Ohio 43123 * Phone 614/545-0101 * Fax 614/545-0107

Bruce L. Auerbach, MD
Richard M. Bardales, MD
Barney B. Beaver, DO
Reuben A. Sheares, III, MD
Michael J. Meleca, MD
Charles W. Noble, II, MD
Rajendra C. Patel, MD

## ECHOCARDIOGRAPHIC REPORT

**Test Date: March 28, 2001**

**Patient Name: Wanda Glenn**

**Ref. Physician: Rajendra C. Patel, MD**

**Patient History: Idiopathic cardiomyopathy with Implantable defibrillator**

**2D: ☒ M-Mode: ☒ Doppler: ☒**

**Tape #: 10**

**Age: 48**

**PCP: Choo Rhee, MD**

**Wt:**

**Ht:**

---

## Echocardiographic Measurement:

| | | | |
|---|---|---|---|
| Aortic Root | – | 3.5 | (2.0-4.0) |
| AoV Opening | – | 2.0 | (1.5-2.6) |
| Lt. Atrium | – | 3.2 | (1.9-4.0) |
| Pl. Effusion | – | | |

Sm. ☐ Mod. ☐ Lg. ☐

| | | | |
|---|---|---|---|
| RVD | – | 1.9 | (0.9-2.6) |
| IVS | – | 1.1 | (0.7-1.1) |
| LVD | – | 5.2 | (<5.6) |
| LVS | – | 3.2 | (<3.5) |
| LVPW | – | 1.1 | (0.7-1.1) |
| RVSP | – | | mm/Hg. |
| HR | – | 106 | BPM |
| EF | – | 40 | % |

**Interpretation:**

The indication for this study is to evaluate a cardiomyopathy.

Standard 2-D, pulse, continuous wave and color-flow echocardiography were performed. The study is technically good. There is no pericardial effusion. Both atria are normal. The tricuspid, mitral and aortic valves are structurally normal. There is a catheter in the right ventricle which is probably a pacemaker. There is an echogenic area running across the tricuspid valve annulus which may be a coronary sinus catheter. The left ventricle has a normal diastolic dimension and normal wall thickness. Systolic function is at the lower limits of normal. I put it at 45-50%. In one view it appears that the inferior base is akinetic. Doppler evaluation reveals normal function in the mitral, tricuspid and aortic valves. Mitral diastolic flow is consistent with diastolic dysfunction.

CONCLUSION: This study demonstrates evidence of mildly reduced ejection fraction.

Technician /s/ David Cowles, BS, RDCS

Cardiologist /s/ Bruce L. Auerbach, MD, FACC

**CAPITOL CITY CARDIOLOGY**

Main Office * 423 East Town Street * Columbus, Ohio 43225 * Phone 814/444-0884 800/479-6802* Fax 614/464-3440
River View Medical Office * 2405 North Columbus Street, Suite 130 * Lancaster, Ohio 43130 * 740-653-7511 * Fax 740/653-7512
Grove City Office * 2041 Strongtown Road * Grove City, Ohio 43123 * Phone 614/545-0101 * Fax 614/545-0107

Bruce L. Auerbach, MD
Richard M. Bardales, MD
Barney B. Beaver, DO
Reuben A. Sheares, III, MD
Michael J. Meleca, MD
Charles W. Noble, II, MD
Rajendra C. Patel, MD

December 15, 2000

Choo Y. Rhee, MD
1492 E Broad St #1604
Columbus OH 43205

**RE: Wanda Glenn (DOB: 12/11/52)**

Dear Choo:

Ms. Glenn was back in our office today for cardiac follow-up. As you know, she is a 48-year-old female with dilated cardiomyopathy as well as complex ventricular arrhythmias and diabetes. She continues to have good days and bad days; however, mostly she is remaining out of any significant failure. Recently her ICD was revised and now she has an ICD with three leads and biventricutar pacing, which is a new technique for patients with cardiomyopathy. She does feel slightly different in terms of how her hearts beats; however, she remains free of any excessive shortness of breath, paroxysmal nocturnal dyspnea, or orthopnea.

Physical examination in my office showed no jugular venous distention or carotid bruits. Lungs were bilaterally clear. Cardiac auscultation revealed

regular rhythm with an S4 gallop. Abdomen and extremities are unremarkable. Electrocardiogram showed an interesting EKG of biventricutar pacing with beat tracking.

From overall evaluation, it seems Ms. Glenn is doing clinically well. In the absence of any new symptoms I have advised her to return in six months for follow-up. If you recall, she also follows up with Dr. Carl Leier once a year for her dilated cardiomyopathy and she sees Dr. Charles Love at Ohio State University for her pacemaker follow-up.

I deeply appreciate the opportunity to participate in her care.

Sincerely,

/s/
Rajendra C. Patel, MD, FACC
Dictated, but not read.
RCP/sem

**MetLife**
**Attending Physician's Statement of Functional Capacity**

Met DisAbility
P.O. Box 3043
Utica, NY 13504-3043

**The information provided is to be used for claims evaluation and auditing purposes only.**
**The patient is responsible for having this form completed without expense to Metropolitan or the Employer.**

| **Patient Name** First | Middle | Last |
|---|---|---|
| WANDA | | GLENN |
| **Group Number** 0031003 | | |
| Social Security # [OMITTED] | | |

1. History and Diagnosis
   - A. Date symptoms first appeared/or accident occurred: 02-1-00
   - B. Date patient ceased work: 04-30-00
   - C. Date of most recent examination: 07-28-00
   - D. Frequency of visits: every 3 months
   - E. Past history:
   - F. Subjective symptoms:
   - G. Objective findings (including test results):
   - H. Primary diagnosis affecting work ability:

     CMP – Idiopathic, SOB, Fatigue
   - I. Secondary diagnosis affecting work ability:

J. Present and future course of treatment:

K. Other known injuries or presently active diseases that may affect work abilities:

2. Does patient's medical condition allow exposure to the following; please check appropriate box and explain any limitation below:

| | No Limitation | Some Limitation | Avoid Completely | Cannot Determine |
|---|---|---|---|---|
| Dust/Gasses/Fumes | | | | |
| Chemicals/Solvents | | | | |
| Temperature Extremes | | See Attached | | |
| Noise Levels | | | | |
| Allergenic Agents | | | | |
| Stairs/Ladders | | | | |
| Scaffolds/Heights | | | | |
| Enclosed Spaces | | | | |
| Drafts/Damp Areas | | | | |

Explanation:

3. Because of the patient's medical conditions, are there any limitations on any of the following activities; please check appropriate box and explain any limitation below

| | No Limitation | Some Limitation | Avoid Completely | Cannot Determine |
|---|---|---|---|---|
| Transportation | | | | |
| Standing | | | | |
| Sitting | | | | |
| Change of Position (sitting/standing) | | | | |
| Assuming Cramped/Unusual Positions | | | | |

| | No Limitation | Some Limitation | Avoid Completely | Cannot Determine |
|---|---|---|---|---|
| Reaching (forward/overhead) | | | | |
| Pushing/Pulling/Twisting (arm/leg controls) | | See Attached | | |
| Grasping/Handling | | | | |
| Finger Dexterity | | | | |
| Repetitive Movement (hands/feet) | | | | |
| Climbing (stairs/ladders/scaffolds) | | | | |
| Balancing (exposure to falling) | | | | |
| Bending/Stooping/Squatting | | | | |
| Operating Truck/Dolly/Small Vehicle | | | | |
| Operating Heavy Equipment | | | | |
| Operating Electrical Equipment | | | | |
| Concentrated Visual Attention | | | | |
| Other | | | | |

Explanation:

---

4. Evaluation of carrying and lifting abilities includes both the intensity and frequency of the activity. For each weight class listed below, please indicate the reasonable top limit of frequency. Please provide an explanation below with any additional comments regarding limitations on duration, handlability and distance (in front of body and above floor).

| Intensity in Pounds | Frequency: Percentage of Workday | | | |
|---|---|---|---|---|
| | Never | Less than 20% | 20% - 60% | Greater than 60% |
| 0-15 | √ | | | |
| 16-30 | | | | |
| 31-45 | | | | |
| Greater than 45 | | | | |

Explanation:

---

5. Is there a past or present psychological problem that might interfere with the patient's ability to work? If yes, please list your findings according to the DMS-tti multiaodal classification.

Yes ☐ No ☐ Not Determined ☐

Explanation: See attached

---

6. If you have any additional information that is relevant to patient's work ability, please indicate below.

See attached

---

7. Progress Evaluation

☐ Recovered ☐ Improved ☐ Unimproved
☐ Retrogressed

(Please check appropriate box and explain below:)

Explanation:

8. Disability Evaluation

**Is patient now totally disabled?**

| For Any Occupation | | | For His/Her Occupation | | |
|---|---|---|---|---|---|
| Yes ☒ | No ☐ | Cannot Determine ☐ | Yes ☐ | No ☒ | Cannot Determine ☐ |

**If No, when was patient able to resume work activities?**

| For Any Occupation | | For His/Her Occupation | |
|---|---|---|---|
| _____ | Cannot Determine ☐ | _____ | Cannot Determine ☐ |

**If Yes, when do you think patient will be able to resume work activities:**

| | For Any Occupation | For His/Her Occupation |
|---|---|---|
| Approximate Date: | Never | |
| Indefinite: | | |
| Never: | | |
| Cannot Determine: | | |

| Raj Patel | MD | |
|---|---|---|
| Name of Physician | Board Certified Specialty | |
| 423 E. Town St. | Cols. OH | 43215 |
| Street Address | City or Town | State |
| (614) 464-0884 | 11/20/00 | /s/ |
| Telephone Number | Date | Signature |

## CAPITOL CITY CARDIOLOGY

Main Office * 423 East Town Street * Columbus, Ohio 43225 * Phone 814/444-0884 800/479-6802* Fax 614/464-3440
River View Medical Office * 2405 North Columbus Street, Suite 130 * Lancaster, Ohio 43130 * 740-653-7511 * Fax 740/653-7512

Bruce L. Auerbach, MD
Richard M. Bardales, MD
Barney B. Beaver, DO
Reuben A. Sheares, III, MD
Michael J. Meleca, MD
Charles W. Noble, II, MD
Rajendra C. Patel, MD


April 7, 2000

Choo Y. Rhee, M.D.
1492 E Broad St #1604
Columbus OH 43205

**RE: Wanda Glenn**

Dear Choo:

Ms. Glenn was back in our office today for cardiac follow-up. As you know, she underwent coronary angiography at Grant Medical Center which showed evidence of primary dilated cardiomyopathy with an LV ejection fraction now of about 20-25%. She was started on Zestril 5mg. po qd which she is tolerating well. She continues to be generally fatigued and has some exertional shortness of breath. She denies any paroxysmal nocturnal dyspnea, orthopnea or leg edema. Her main problem now is the stress at work. She works in a Sears ~~catalog~~ store and does have physical as well as psychologic stress. Considering her low ejection fraction, I feel that she may not be able to continue to work in any kind of environment that would cause any significant physical or psychologic stress and demands.

At the present time I have advised her to try for disability. I have also advised her to increase the Zestril dose to 10mg. a day. I have advised her to get a chem-7 study done in about a week to make sure that she is tolerating the ACE inhibitor well without any electrolyte disturbances. Down the road my inclination would be to increase the Zestril dose to about 20mg. a day as tolerated. She is already on a beta blocker (Normodyne) and Lanoxin. She was seen by Dr. Charles Love at Ohio State University for her pacemaker follow-up, and he is planning to refer her to the cardiomyopathy clinic at Ohio State University Hospitals.

From a cardiac standpoint, I plan to see her back in a couple of months; however, depending on where she goes for her cardiac follow-up, I will decide whether I will be continuing to see her on a regular basis.

I deeply appreciate the opportunity to participate in her care.

Sincerely,

/s/
Raj. C. Patel, MD, FACC
Dictated, but not read.
RCP/cjm

## CAPITOL CITY CARDIOLOGY

Main Office * 423 East Town Street * Columbus, Ohio 43225 * Phone 814/444-0884 800/479-6802* Fax 614/464-3440
River View Medical Office * 2405 North Columbus Street, Suite 130 * Lancaster, Ohio 43130 * 740-653-7511 * Fax 740/653-7512

Bruce L. Auerbach, MD
Richard M. Bardales, MD
Barney B. Beaver, DO
Reuben A. Sheares, III, MD
Michael J. Meleca, MD
Charles W. Noble, II, MD
Rajendra C. Patel, MD


July 28, 2000

Choo Y. Rhee, M.D.
1492 E Broad St #1604
Columbus OH 43205

**RE: Wanda Glenn**

Dear Choo:

Ms. Glenn was back in our office today for cardiac follow up. As you know, she is a 47-year-old female with a history of idiopathic dilated cardiomyopathy as well as complex ventricular arrhythmias requiring a defibrillator. She has been evaluated by Dr. Carl Leier because of progressive LV dysfunction regarding the possibility of a cardiac transplant if needed. Fortunately, she showed good functional capacity and tolerance at the non-invasive workup at Ohio State University Hospital and at the present time has been under surveillance by Dr. Carl Leier. He is planning to see her once a year. Ms. Glenn still wants me to be her primary cardiologist. She basically has felt much better since last visit. I feel some of her improvement is from the reduction of stress and strain of work. She still has good and bad days and in fact there are periods where she feels

extremely tired and fatigued and runs out of steam. She fortunately, denies any paroxysmal nocturnal dyspnea, orthopnea or leg edema. Recently, she was seen in your office because of significant non-productive cough which possibly was related to Zestril and since then has been switched to Diovan. Other medications include Lasix, potassium, Lanoxin, Norvasc, aspirin and calcium as well as Normodyne.

Her physical examination today in my office reveled no evidence of jugular venous distention or carotid bruits. Lungs are bilaterally clear. Cardiac auscultation revealed regular rhythm with an S4 gallop. Abdomen was benign. Extremities reveal no ankle edema no acute distress good pedal pulses.

From overall evaluation it seems Wanda is doing clinically well. I have advised her now to return in four months for re-evaluation. Meanwhile, I have advised her to look for a permanent defibrillator considering her significant LV dysfunction. She will also be seeing Dr. Carl Leier once a year for her progressive myocardial disease.

I deeply appreciate the opportunity to participate in her care.

Sincerely,

/s/

Raj. C. Patel, MD, FACC
Dictated, but not read.
RCP/cb

# CAPITOL CITY CARDIOLOGY

Main Office * 423 East Town Street * Columbus, Ohio 43225 * Phone 814/444-0884 800/479-6802* Fax 614/464-3440
River View Medical Office * 2405 North Columbus Street, Suite 130 * Lancaster, Ohio 43130 * 740-653-7511 * Fax 740/653-7512

Bruce L. Auerbach, MD
Richard M. Bardales, MD
Barney B. Beaver, DO
Reuben A. Sheares, III, MD
Michael J. Meleca, MD
Charles W. Noble, II, MD
Rajendra C. Patel, MD

April 28, 2000

Choo Y. Rhee, M.D.
1492 E Broad St #1604
Columbus OH 43205

**RE: Wanda Glenn**

Dear Choo:

Ms. Glenn was back in our office today for cardiac follow up. She has been tolerating her Zestril well. Her chem 7 looked okay. I have now decided to increase her Zestril to 20 mg a day since her blood pressure today was 150/100. As you know, the other medications include Lasix, potassium supplement, Lanoxin and Norvasc as well as Normodyne. Ms. Glenn had multiple questions about her activity level and role of exercise program. I explained to her that aerobic type of exercises will definitely help her cardiovascular condition and in fact if her insurance company would approve it would be best for her to join a cardiac rehabilitation program for her dilated cardiomyopathy. I also answered some of her questions regarding her prognosis. I explained to her that prognosis in this condition is quite variable and it depends on the progression of her disease.

Periodic 2D echocardiographic studies as well as clinical evaluation will help to evaluate her progress. Ms. Glenn is planning to go to Ohio State for further evaluation of her cardiomyopathy and I agree with the plan.

From cardiac standpoint, I have advised her to see me back in three months, however, if she decides to have all her care taken at Ohio State University Cardiology Group, I would have no problems with this. I have advised her to have them contact me if I could provide any further details regarding her previous history.

I deeply appreciate the opportunity to participate in her care.

Sincerely,

/s/
Raj. C. Patel, MD, FACC
Dictated, but not read.
RCP/cb

# CAPITOL CITY CARDIOLOGY

Main Office * 423 East Town Street * Columbus, Ohio 43225 * Phone 814/444-0884 800/479-6802* Fax 614/464-3440
River View Medical Office * 2405 North Columbus Street, Suite 130 * Lancaster, Ohio 43130 * 740-653-7511 * Fax 740/653-7512

Bruce L. Auerbach, MD
Richard M. Bardales, MD
Barney B. Beaver, DO
Reuben A. Sheares, III, MD
Michael J. Meloca, MD
Charles W. Noble, II, MD
Rajendra C. Patel, MD

April 19, 2000

**RE: Wanda Glenn**

TO WHOM IT MAY CONCERN:

Ms. Wanda Glenn is a patient of mine who suffers from severe dilated cardiomyopathy. This patient has significant difficulty with general fatigue and exertional shortness of breath because of her cardiac condition.

From my standpoint, this patient cannot return to any kind of job that would require any significant physical or psychologic demands on her.

Please do not hesitate to call me if I can provide any further information in this matter. With best regards.

Sincerely,

/s/
Raj. C. Patel, MD, FACC
Dictated, but not read.
RCP/bjj

# CAPITOL CITY CARDIOLOGY

Main Office * 423 East Town Street * Columbus, Ohio 43225 * Phone 814/444-0884 800/479-6802* Fax 614/464-3440
River View Medical Office * 2405 North Columbus Street, Suite 130 * Lancaster, Ohio 43130 * 740-653-7511 * Fax 740/653-7512

Bruce L. Auerbach, MD
Richard M. Bardales, MD
Barney B. Beaver, DO
Reuben A. Sheares, III, MD
Michael J. Meleca, MD
Charles W. Noble, II, MD
Rajendra C. Patel, MD

March 13, 2000

Choo Rhee, MD
1492 E Broad St
Columbus OH 43205

**RE: Wanda Glenn**

Dear Choo:

Ms. Glenn was back in our office today for cardiac follow-up. Her adenosine cardiolite study did not show any inducible ischemia, however, it did show a fixed anterior defect which could be from breast attenuation, or it could represent an area of severe ischemia or infarction. Also, her ejection fraction was as low as about 22%, which is markedly reduced compared to her ejection fraction in the past which has been as high as 40-45%. Wanda had another episode of chest tightness while coming to our office. She describes continued difficulty with exertional chest tightness.

I advised her to undergo coronary angiography, particularly because of the progression of her LV dysfunction as well as continued symptoms. She has agreed with this. I had a lengthy discussion with her and her husband regarding the pros and cons of such

a procedure along with the risks and possible complications.

I will keep you posted regarding the cardiac catheterization findings, and then make additional recommendations as needed. I deeply appreciate the opportunity to participate in her care.

Sincerely,

/s/
Raj. C. Patel, MD, FACC
Dictated, but not read.
RCP/cjm

# CAPITOL CITY CARDIOLOGY

Main Office * 423 East Town Street * Columbus, Ohio 43225 * Phone 814/444-0884 800/479-6802* Fax 614/464-3440
River View Medical Office * 2405 North Columbus Street, Suite 130 * Lancaster, Ohio 43130 * 740-653-7511 * Fax 740/653-7512

Bruce L. Auerbach, MD
Richard M. Bardales, MD
Barney B. Beaver, DO
Rajesh D. Gagiani, MD
Michael J. Meleca, MD
Charles W. Noble, II, MD
Rajendra C. Patel, MD
Reuben A. Sheares, III, MD

March 15, 2000

Choo Y. Rhee, MD
1492 E Broad St #1604
Columbus OH 43205

**RE: Wanda Glenn**

Dear Choo:

Ms. Glenn underwent coronary angiography which basically showed normal coronary angiography with no evidence of coronary obstructive disease. Left ventricular cineangiography showed severe dilated cardiomyopathy with an ejection fraction of about 20-25%. She was started on Zestril (5 mg) po qd as an ACE inhibitor along with her other medications, and I will titrate this ACE inhibitor dose as tolerated.

I deeply appreciate the opportunity to participate in her care.

Sincerely,

/s/
Raj. C. Patel, MD, FACC
Dictated, but not read.
RCP/tjs

**CAPITOL CITY CARDIOLOGY**

Main Office * 423 East Town Street * Columbus, Ohio 43225 * Phone 814/444-0884 800/479-6802* Fax 614/464-3440
River View Medical Office * 2405 North Columbus Street, Suite 130 * Lancaster, Ohio 43130 * 740-653-7511 * Fax 740/653-7512

Bruce L. Auerbach, MD
Richard M. Bardales, MD
Barney B. Beaver, DO
Rajesh D. Gaglani, MD
Michael J. Meleca, MD
Charles W. Noble, II, MD
Rajandra C. Patel, MD
Reuben A. Sheares, III, MD

March 3, 2000

Choo Y. Rhee, M.D.
1492 E Broad St #1604
Columbus, OH 43205

**RE: Wanda Glenn**

Dear Choo:

Ms. Glenn was back in our office today for cardiac follow-up. As you know, she is a 47-year-old female with history of sudden cardiac death syndrome, chronic left bundle branch block, and primary myocardial disease, moderate LV systolic dysfunction and normal coronary angiography. She had a cardiac catheterization in 1993. She has an ICD device which is being followed up by Dr. Love at Ohio State University Hospital. Ms. Glenn has been clinically stable on medical regimen and has not seen me for awhile. She now returns to see me because of concerns about substernal chest tightness. The chest tightness is in the form of vague heavy pressure which lasts several hours at a time, not always related to exertion or emotional excitement. Episodes come and go however they have become a little more frequent and concerning to her. She

denies any exertional shortness of breath, paroxysmal nocturnal dyspnea or orthopnea. She denies any dizziness or syncope.

Current medications include Lasix, potassium supplement, Lanoxin, Norvasc, aspirin, Normodyne, as well as calcium supplement. She does not smoke and denies any alcohol overuse.

Physical examination revealed a 47-year-old female with normal physical build. She is warm and dry. There is no jugular venous distention or carotid bruits. Lungs were bilaterally clear. Cardiac auscultation revealed regular rhythm with an S4 gallop. Abdomen was benign. Extremities revealed no ankle edema and good pedal pulses. Electrocardiogram shows chronic left bundle branch block with secondary ST changes. The EKG is unchanged from previous tracings.

From overall evaluation it seems Ms. Glenn is having difficulty with recurrent chest pains, chest tightness and pressure. I am not sure whether we are dealing with ischemic heart disease or whether this is non-cardiac chest discomfort. Considering her dilated cardiomyopathy and chronic left bundle branch block, I have decided to do a 2D echocardiogram and Adenosine Cardiolite study to evaluate this situation further, and depending on the findings, I will make additional recommendations regarding coronary angiography or medical management.

I deeply appreciate the opportunity to participate in her care.

Sincerely,

/s/

Raj. C. Patel, MD, FACC
Dictated, but not read.
RCP/tjs

**MetLife**
**Attending Physician's Statement of Functional Capacity**

Met Disability
P.O. Box 3043
Utica, NY 13504-3043

The information provided is to be used for claims evaluation and auditing purposes only. The patient is responsible for having this form completed without expense to Metropolitan or the Employer.

| **Patient Name** First | Middle | Last |
|---|---|---|
| WANDA | | GLENN |
| **Group Number** 0031003 | | |
| Social Security # [OMITTED] | | |

1. History and Diagnosis
   - A. Date symptoms first appeared/or accident occurred: 02-01-00
   - B. Date patient ceased work: 04-30-00
   - C. Date of most recent examination: 04-06-01
   - D. Frequency of visits: Q 3 months
   - E. Past history:
   - F. Subjective symptoms:
   - G. Objective findings (including test results):
   - H. Primary diagnosis affecting work ability:

     CMP – Idiopathic, SOB, Fatigue

I. Secondary diagnosis affecting work ability:

J. Present and future course of treatment:

K. Other known injuries or presently active diseases that may affect work abilities:

2. Does patient's medical condition allow exposure to the following; please check appropriate box and explain any limitation below:

| | No Limitation | Some Limitation | Avoid Completely | Cannot Determine |
|---|---|---|---|---|
| Dust/Gasses/Fumes | | | | |
| Chemicals/Solvents | | | | |
| Temperature Extremes | | See Attached | | |
| Noise Levels | | | | |
| Allergenic Agents | | | | |
| Stairs/Ladders | | | | |
| Scaffolds/Heights | | | | |
| Enclosed Spaces | | | | |
| Drafts/Damp Areas | | | | |

Explanation:

---

3. Because of the patient's medical conditions, are there any limitations on any of the following activities; please check appropriate box and explain any limitation below.

| | No Limitation | Some Limitation | Avoid Completely | Cannot Determine |
|---|---|---|---|---|
| Transportation | | | | |
| Standing | | | | |
| Sitting | | | | |
| Change of Position (sitting/ standing) | | | | |

| | No Limitation | Some Limitation | Avoid Completely | Cannot Determine |
|---|---|---|---|---|
| Assuming Cramped/Unusual Positions | | | | |
| Reaching (forward/overhead) | | | | |
| Pushing/Pulling/ Twisting (arm/leg controls) | | See Attached | | |
| Grasping/Handling | | | | |
| Finger Dexterity | | | | |
| Repetitive Movement (hands/feet) | | | | |
| Climbing (stairs/ladders/scaffolds) | | | | |
| Balancing (exposure to falling) | | | | |
| Bending/Stooping/Squatting | | | | |
| Operating Truck/Dolly/Small Vehicle | | | | |
| Operating Heavy Equipment | | | | |
| Operating Electrical Equipment | | | | |
| Concentrated Visual Attention | | | | |
| Other | | | | |

Explanation:

---

4. Evaluation of carrying and lifting abilities includes both the intensity and frequency of the activity. For each weight class listed below, please indicate the reasonable top limit of frequency. Please provide an explanation below with any additional comments regarding

limitations on duration, handlability and distance (in front of body and above floor).

| Intensity in Pounds | Frequency: Percentage of Workday | | | |
|---|---|---|---|---|
| | Never | Less than 20% | 20% - 60% | Greater than 60% |
| 0-15 | √ | | | |
| 16-30 | | | | |
| 31-45 | | | | |
| Greater than 45 | | | | |

Explanation:

---

5. Is there a past or present psychological problem that might interfere with the patient's ability to work? If yes, please list your findings according to the DMS-tti multiaodal classification.

Yes ☐ No ☐ Not Determined ☐

Explanation: See attached

---

6. If you have any additional information that is relevant to patient's work ability, please indicate below.

See attached

---

7. Progress Evaluation

☐ Recovered ☐ Improved ☐ Unimproved
☐ Retrogressed

(Please check appropriate box and explain below:)

Explanation:

8. Disability Evaluation

**Is patient now totally disabled?**

| For Any Occupation | | | For His/Her Occupation | | |
|---|---|---|---|---|---|
| Yes ☒ | No ☐ | Cannot Determine ☐ | Yes ☐ | No ☒ | Cannot Determine ☐ |

**If No, when was patient able to resume work activities?**

| For Any Occupation | | For His/Her Occupation | |
|---|---|---|---|
| _____ | Cannot Determine ☐ | _____ | Cannot Determine ☐ |

**If Yes, when do you think patient will be able to resume work activities?**

| | For Any Occupation | For His/Her Occupation |
|---|---|---|
| Approximate Date: | Never | |
| Indefinite: | | |
| Never: | | |
| Cannot Determine: | | |

| Raj Patel | MD | | |
|---|---|---|---|
| Name of Physician | Board Certified Specialty | | |
| 423 E. Town St. | Cols. OH | 43215 | |
| Street Address | City or Town | State | |
| (614) 464-0884 | | /s/ | 6/27/01 |
| Telephone Number | Date | Signature | |

## TRANSFERABLE SKILLS ANALYSIS

| | |
|---|---|
| **CLAIMANT:** | Wanda Glenn |
| **CLAIM #:** | 690008108949 |
| **SOCIAL SECURITY #:** | [OMITTED] |
| **DOB:** | 12/11/52 |
| **GROUP #:** | 31003 |
| **D.O.D:** | 4/30/2000 |
| **EMPLOYER:** | Sears |
| **REFERRED BY:** | Earl Chesler |
| **DATE:** | July 10, 2002 |
| **CONSULTANT:** | Lisa Hissem, MS, CRC |

## INTRODUCTION

Ms. Glenn is a fifty year old Sales Department Manager for Sears, Roebuck & Co. who has been out of work since April 30, 2000. She is diagnosed with Cardiomyopathy. Ms. Glenn's current Monthly Long-Term Disability benefit is $1,850.00. Ms. Glenn has been employed by Sears Roebuck & Co since March of 1990 and annual salary is $36,999.96. A Transferable Skills Analysis and Labor Market Analysis was requested and completed using the Dictionary of Occupational Titles (DOT), the Occupational Access System (OASYS) and the America's Job Bank for the state of Ohio.

## VOCATIONAL/EDUCATIONAL HISTORY

According to the Training, Education and Experience for Long Term Disability claim form, Ms. Glenn reported completing twelve years of education. Ms. Glenn worked at Sears, Roebuck & Co. as a Sales Department Manager, from 1994 to 2000, which involved maximizing store revenue and profit; identify and solve business problems; develop and maintain quality customer service; and hire, train and supervise staff. Additional responsibilities

include coordinate daily activities of sales department; monitor merchandise replenishment; and establish and communicate performance goals and standards. Ms. Glenn also worked as a Sales Associate from 1986 to 1994 and an Auditing Clerk from 1988 to 1989.

Ms. Glenn's vocational training and work experience can best described by the following descriptions from the Dictionary of Occupational Titles:

| Title | DOT# |
|---|---|
| Manager, Department Store | 185.117-010 |
| Manager, Sales | 163.167-018 |
| Sales Representative, General Merchandise | 279.357-014 |
| Audit Clerk | 210.382-010 |

The physical demand categories for these occupations are sedentary to light according to the Department of Labor (DOL). A Department Store Manager is considered to be a skilled occupation requiring over four years and up to ten years of training to acquire the skills and knowledge necessary to perform the job at an average level of competence.

**MEDICAL HISTORY-RESTRICTIONS AND LIMITATIONS**

Physical restrictions and limitations were obtained from the Attending Physician Statement, dated June 12, 2002, by Dr. Rajendra Patel. Dr. Patel indicates that Ms. Glenn is capable of a sitting for eight hours, standing for four hours, walking for two to four hours; ability to lift and carry up to ten pounds occasionally; ability to perform bilateral upper extremity movements; ability to bend and squat frequently; inability to crawl, climb, being

around unprotected heights and moving machinery. Dr. Patel also notes additional restrictions and limitations as 'no emotional stress and heavy exertion'.

An Independent Physician Consultation indicates the above restrictions and limitations are appropriate given the diagnosis and level of functioning.

Based on this information it is determined that Ms. Glenn capable of Sedentary Exertion Level activity defined by the U.S. Department of Labor. Sedentary Level is defined as "Exerting up to ten pounds of force occasionally and /or a negligible amount of force frequently to lift, carry push, pull or otherwise move objects, including the human body. Sedentary work involves sitting most of the time but may involve walking or standing for brief periods of time. Jobs are sedentary if walking and standing are required only occasionally and all other sedentary criteria are met."

**TRANSFERABLE SKILLS ANALYSIS**

Alternative occupations were identified using the OASYS software program (Version 1.30, 2000). This search identifies occupations that are consistent with Ms. Glenn's Specific Vocational Preparation, General Education Development, physical capabilities and required skills she has demonstrated the ability to perform in her past work experience. Occupations listed in the DOT are based on the DOL's standard criteria, as performed in the general labor market. The following jobs were among those identified:

| Title | DOT# | Exertion Level | Estimated Monthly Wages |
|---|---|---|---|
| 1. Account Information Clerk | 210.367-010 | Sedentary | $ 2,116.66 |
| 2. Attendance Clerk | 219.362-014 | Sedendary | $ 1,768.33 |
| 3. Classified Ad Clerk | 247.367-010 | Sedentary | $ 1,950.00 |

**LABOR MARKET ANAYSIS**

The estimated wages given are based on OASYS wage information obtained from the Bureau of Labor Statistics utilizing Occupational Employment Statistics (OES) as its basis. Utilizing Americas Job Bank to match industry codes with those most likely to hire for these occupations identified, employers were noted to exist with Ms. Glenn's geographical area of Columbus, Ohio.

**CONCLUSION**

Ms. Glenn is a fifty year old Sales Department Manager for Sears, Roebuck & Co. who has been out of work since April 30, 2000. She is diagnosed with Cardiomyopathy. The Attending Physician statement has noted restrictions and limitations that match the Sedentary Physical Exertion Level as defined by the U.S. Department of Labor. Alternative occupations that she has demonstrated the transferable skills to perform within her residual physical capacities were identified. Employers from the industries most likely to hire for these occupations were noted to exist in Ms. Glenn's geographical area of Columbus, Ohio.

**Respectfully submitted,**

**/s/**
**Lisa Hissem, MS, CRC**
**Vocational Rehabilitation Consultant**

**Attending Physician's Statement of Functional Capacity**

**Mail this form to Sears in the self addressed envelope.**

It is a crime to fill out this form with facts you know are false or to leave out facts you know are important.

The information provided is to be used for claims evaluation and auditing purposes only. The patient is responsible for having this form completed without expense to Metropolitan or the Employer.

1. History and Diagnosis
   - A. Date symptoms first appeared/or accident occurred: 3-3-2000
   - B. Date patient ceased work: 4/30/2000
   - C. Date of first visit:
   - D. Date of most recent examination: 7-28-2000
   - E. Frequency of visits: every 3 months
   - F. Past history:
   - G. Objective findings including test results:
   - H. Subjective symptoms: see attached
   - I. State primary diagnosis affecting work ability:
   - J. State secondary diagnosis affecting work ability: See attached
   - K. Present and future course of treatment:
   - L. Other known injuries or presently active diseases that may affect work abilities:

| M. Surgery: | Performed — Date 3/14/00<br>Anticipated — Date |
|---|---|

2. Does patient's medical condition allow exposure to the following; please check appropriate box and explain any limitation below.

| | No Limitation | Some Limitation | Avoid Completely | Cannot Determine |
|---|---|---|---|---|
| Dust/Gasses/Fumes | | | | |
| Chemicals/Solvents | | | | |
| Temperature Extremes | | See Attached | | |
| Noise Levels | | | | |
| Allergenic Agents | | | | |
| Stairs/Ladders | | | | |
| Scaffolds/Heights | | | | |
| Enclosed Spaces | | | | |
| Drafts/Damp Areas | | | | |

Explanation:

---

3. Because of the patient's medical conditions, are there any limitations on any of the following activities? Please check appropriate box and explain any limitation below:

| | No Limitation | Some Limitation | Avoid Completely | Cannot Determine |
|---|---|---|---|---|
| Commuting:<br>(a) Ability to drive<br>(b) Use of public transportation | | | | |
| Walking | | | | |
| Standing | | | | |
| Sitting | | | | |
| Change of Position (sitting/standing) | | | | |

| | No Limitation | Some Limitation | Avoid Completely | Cannot Determine |
|---|---|---|---|---|
| Assuming Cramped/Unusual Positions | | | | |
| Reaching (forward/overhead) | | | | |
| Pushing/Pulling/ Twisting (arm/leg controls) | | See Attached | | |
| Grasping/Handling | | | | |
| Finger Dexterity | | | | |
| Repetitive Movement (hands/feet) | | | | |
| Climbing (stairs/ladders/scaffolds) | | | | |
| Balancing (exposure to falling) | | | | |
| Bending/Stooping/ Squatting | | | | |
| Operating Truck/Dolly/Small Vehicle | | | | |
| Operating Heavy Equipment | | | | |
| Operating Electrical Equipment | | | | |
| Concentrated Visual Attention | | | | |
| Other | | | | |

Explanation:

4. Evaluation of carrying and lifting abilities includes both the intensity and frequency of the activity. For each weight class listed below, please indicate the reasonable top limit of frequency. Please provide an explanation below with any additional comments regarding

limitations on duration, ability to handle and distance (in front of body and above floor)

| Intensity in Pounds | Frequency: Percentage of Workday | | | |
|---|---|---|---|---|
| | Never | Less than 20% | 20% - 60% | Greater than 60% |
| 0-15 | √ | | | |
| 16-30 | | | | |
| 31-45 | | | | |
| Greater than 45 | | | | |

Explanation:

See attached

---

5. Is there a past or present psychological problem that might interfere with the patient's ability to work? If yes, please list your findings according to the DMS-tti multiaodal classification.

Yes ☐ No ☒ Not Determined ☒

---

6. Indicate below if you have any additional information that is relevant to this patient's work ability. Please refer to the questions on the front of this form regarding Job Description and, if necessary, discuss them with the patient.

See attached

---

7. Disability Evaluation – We are seeking your Medical opinion on this topic. It will be our responsibility to assess it against vocational data, such as level of earnings (and job availability.

The following questions take into account whether the patient can perform the important duties of his/her job with reasonable continuity, including commuting to work. They also take into account whether the patient can perform the important duties of any other job with reasonable continuity including commuting to work. In answering these questions please consider his/her age, physical capacities, education, training, and experience.

Is patient now totally disabled?

| For His/Her Occupation | | | For Any Occupation | | |
|---|---|---|---|---|---|
| Yes ☒ | No ☐ | Cannot Determine ☐ | Yes ☐ | No ☒ | Cannot Determine ☒ |

If No, when was patient able to resume work activities?

| For Any Occupation | | For His/Her Occupation | |
|---|---|---|---|
| _____ | Cannot Determine ☐ | _____ | Cannot Determine ☐ |

If Yes, when do you think patient will be able to resume work activities:

| | For Any Occupation | For His/Her Occupation |
|---|---|---|
| Approximate Date: | _____ | _____ |
| Indefinite: | _____ | _____ |
| Never: | Never | _____ |
| Cannot Determine: | _____ | _____ |

---

If Yes, is patient a suitable candidate for:

(a) vocational rehabilitation Yes ☐ No ☐

(b) therapeutic rehabilitation Yes ☐ No ☐

---

8. Progress Evaluation

| | | |
|---|---|---|
| Recovered | Yes ☐ | No ☐ |
| Improved | Yes ☐ | No ☐ |
| Unimproved | Yes ☐ | No ☐ |
| Retrogressed | Yes ☐ | No ☐ |

---

9. In your opinion is the patient competent to endorse checks and direct the use of their proceeds? Yes ☒ No ☐

---

10. Remarks: If you have additional information relative to this disability claim, please use page four.

---

| | | |
|---|---|---|
| Raj Patel | MD Cardiology | |
| Name of Physician | Board Certified Specialty | |
| 423 E. Town St. | Columbus, OH | 43215 |
| Street Address | City or Town | State |
| (614) 464-0884 | 8/2/00 | /s/ |
| Telephone Number | Date | Signature |

**SEARS** **MetLife**

**Met Disability**
**P.O. Box 3043**
**Utica, NY 13504**
**Fax # 315-792-2514**

## EMPLOYER'S STATEMENT OF LTD CLAIM

**FRONT SIDE TO BE COMPLETED BY THE ASC. REVERSE SIDE TO BE COMPLETED AND SIGNED BY THE UNIT MANAGER**

Claimant's Full Name: Glenn, Wanda
Date of Birth: 12/11/52
Social Security No.: [OMITTED]
Service Date: 3-20-90
Employment Status:
Regular Hourly ☐
Part-Time Regular Hourly ☐
Salaried ☒
LTD Insurance Effective Date 4/1/91
Unit No 1370
Div/Dept 7003-A
ASC No 745166
Last Day Worked 4-29-00
☐ Hourly Current Hourly Benefit Rate _____
☒ Salaried Current Monthly Rate_____
Status:
☒ Active
☐ Terminated/Retired

_____
Date
☐ Date of Last Contribution _____
☐ Leave of Absence _____
☐ Type of Leave _____

BEST AVAILABLE COPY



☐ Date Leave Began _____

**Medical Information: Include Copies of Any Medical Reports, etc. Relevant to Associate's Claim**

**If currently a member, period of time, if any, without insurance coverage or with suspended coverage** From _____ To _____

**If not currently a member, date of coverage termination** _____

**Long-Term Disability (LTD)**

**Current LTD monthly covered earnings $3,083.33**

**Other Disability Benefits – Always Complete This Section**
**For Associates covered by the disability plans of Rhode Island, New York, New Jersey, Puerto Rico, Hawaii and/or California, give amounts and dates of disability benefits under such plans received beyond 20 weeks.**

**Weekly Benefit $**
**Anticipated Expiration Date***
***If no expiration date show "continuing"**

**Did the disability result from a work-related injury or illness?** Yes No

**Has a claim for workers compensation been filed?** Yes No

**If yes, provide address and telephone number of workers compensation claim office in space below**

_____
_____
_____
_____
(  ) _____

**If a claim has been filed**
**Legal Rate Per Week $**
**Date Statutory Benefits Started _/_/_/**
**Date Statutory Benefits Terminated _/_/_/**
**If no termination date, show "continuing"**

**Attach a copy of all notices, agreements, awards and/or compromise settlements**

**Worked in State _____**

**Important: Store Manager Must Complete Associate's Job Description on Reverse Side**

**ASC Stamp**

**SEARS, ROEBUCK AND CO.**
**Associate Service Center**
**4740 Hugh Howell Rd.**
**Tucker, GA 30084**

/s/
Signature of ASC Manager

7/11/00
Date

(770) 496-7800
Telephone No.

**It is a crime to fill out this form with facts you know are false or to leave out facts you know are important**

**19081 Rev. 3/95 Sears Forms Management**

**(See Reverse Side)**

## CLAIMANT'S JOB DESCRIPTION

| | |
|---|---|
| Name<br>Glenn, Wanda | Regular Hourly ☐<br>Part-Time Regularly Hourly ☐<br>Salaried ☒ |
| Job Title<br>Manager 7003A | Present Assignment Date<br>3-20-90 |
| Part-Time Regular<br>Number of Hours Worked Per Week Prior to Disability 40-50 | |
| CURRENT OCCUPATIONAL REQUIREMENTS<br>Please check appropriate box to indicate current occupation requirements. When more than one exposure or activity is listed per line, cross out that which does not apply. | |

| Exposure to: | 0% | 1-19% Working Day | 20%-60% Working Day | 61%-100% Working Day |
|---|---|---|---|---|
| Dust/gas/fumes | | X | | |
| Chemicals/solvents | | X | | |

| | | | | |
|---|---|---|---|---|
| Temperature extremes | X | | | |
| High nose levels | X | | | |
| Allergenic agents | | X | | |
| Enclosed spaces | X | | | |
| Wet conditions | X | | | |
| Reduced lighting levels | X | | | |
| Electrical sources | X | | | |
| Other | | | | |

Explanation:

| Required Activities: | 0% | 1-19% Working Day | 20%-60% Working Day | 61%-100% Working Day |
|---|---|---|---|---|
| Sitting | | X | | |
| Standing | | | X | |
| Walking | | | | X |
| Climb stairs/ladder/scaffold | | X | | |
| Balancing (Exposure to falling) | | X | | |
| Cramped/unusual positions | X | | | |
| Extended reach forward/overhead | | X | | |
| Push/pull/twist | | X | | |
| Grasp/handle | | X | | |
| Bend/stoop/squat | | X | | |
| hand dexterity | | X | | |
| Highly repetitive motion | | X | | |
| Forceful wrist twisting | | X | | |
| Operate truck/dolly/small vehicle | X | | | |
| Operate heavy equipment | X | | | |
| Fine visual auditory attention | X | | | |
| Precise verbal/ written communication | X | | | |

| | | | | |
|---|---|---|---|---|
| Other | | | | |

Explanation:

Carrying & Lifting Requirements

| Intensity in Pounds | Frequency: Percentage of Workday | | | |
|---|---|---|---|---|
| | Never | Less Than 20% | 20%-60% | Greater Than 60% |
| 0-15 | | X | | |
| 16-30 | | X | | |
| 31-45 | | X | | |
| >45 | | X | | |

Explanation (if necessary):
Supervisory Functions (if applicable): Directly supervises 20-30 sales associates

Other Significant Factors or Comments:

| /s/ | Pat Butler | (614) 868-7094 | 7-2-00 |
|---|---|---|---|
| Signature of Unit Manager | Print Name | Telephone | Date |

KENNEDY & ASSOCIATES, INC.
P.O. Box 159
Tinley Park, Illinois 60477-0159
tel.: 800-637-0593 * fax: 708-532-7847
email: SSAAid@aol.com

July 8, 2002

Mr. Paul DePree
Metropolitan Life Insurance Co
Disability Management Services
P.O. Box 14590
Lexington, KY 40511-4590

**Financial Index for Claim No: 690008108949**

| | |
|---|---|
| Re: | Glenn, Wanda |
| Claim #: | 690008108949 |
| SSN: | [OMITTED] |
| Group #: | 31003 |
| Group: | Sears |

Dear Mr. DePree:

Social Security Award information for claimant was previously submitted. We are writing to advise of payment received from the claimant for our services.

Kennedy & Associates has received payment from Ms. Wanda Glenn for our services in securing her Social Security disability award.

The payment received was check number 3382 and the amount was $4,434.50.

As always, we greatly appreciate the opportunity to provide you insured with an effective means by which to secure their Social Security benefits, and we look forward to your future referrals.

**Respectfully,**
**/s/**
**Maria Flores**
**Account Representative**
**Kennedy & Associates**

Social Security Administration
**Retirement, Survivors and Disability Insurance**
Notice of Award

Office of Central Operations
1500 Woodlawn Drive
Baltimore, Maryland 21241-1500
Date: June 15, 2002
Claim Number: [OMITTED]HA

WANDA GLENN
2566 SONATA DR
COLUMBUS, OH 43209-3211

You are entitled to monthly disability benefits beginning October 2000.

**The Date You Became Disabled**

We found that you became disabled under our rules on April 30, 2000.

However, you have to be disabled for 5 full calendar months in a row before you can be entitled to benefits. For these reasons, your first month of entitlement to benefits is October 2000.

**What We Will Pay And When**

- You will receive $17,738.00 around June 21, 2002.
- This is the money you are due for October 2000 through May 2002.
- Your next payment of $911.00, which is for June 2002, will be received on or about the third Wednesday of July 2002.

- After that you will receive $911.00 on or about the third Wednesday of each month.
- These and any future payments will go to the financial institution you selected. Please let us know if you change your mailing address, so we can send you letters directly.

The day we make payments on this record is based on your date of birth.

Enclosure(s):

Pub 05-10153
Pub 05-10058
Return Envelope
Form (HCFA-2690)

See Next Page

**Your Benefits**

The following chart shows your benefit amount(s) before any deductions or rour ding. The amount you actually receive(s) may differ from you full benefit amount. When we figure how much to pay you, we must deduct certain amounts, such as Medicare premiums. We must also round down to the nearest dollar.

| Beginning Date | Benefit Amount | Reason |
|---|---|---|
| October 2000 | $825.40 | Entitlement began |
| December 2000 | $854.20 | Cost-of-Living adjustment |
| January 2001 | $888.70 | Credit for additional earnings |
| December 2001 | $911.80 | Cost-of-Living adjustment |

**Information About Medicare**

You are entitled to medicare hospital and medical insurance beginning October 2002.

We will send you a Medicare card. You should take this card with you when you need medical care. If you need medical care before receiving the card and your coverage has already begun, use this letter as proof that you are covered by Medicare.

If you do not want medical insurance, please complete the enclosed card and return it to us in the envelope we have provided. You will need to do this by the date shown on the card. If you decide you do not want the insurance, we will return any premiums that you have paid.

**Information About Representative's Fees**

We have approved the fee agreement between you and your representative.

Your past-due benefits are $17,738.00 for October 2000 through May 2002. Under the fee agreement, the representative cannot charge you more than $4,434.50 for his or her work. The amount of the fee does not include any out-of-pocket expenses (for example, costs to get copies of doctors' or hospitals' reports). This is a matter between you and the representative.

**How To Ask Us To Review The Determination On The Fee Amount**

You, the representative or the person who decided your case can ask us to review the amount of the fee we say the representative can charge.

If you think the amount of the fee is too high, write us within 15 days from the day you get this letter. Tell us that you disagree with the amount of the fee and give your reasons. Send your request to this address:

Social Security Administration
Office of Hearings and Appeals
Attorney Fee Branch
5107 Leesburg Pike
Falls Church, Virginia 22041-3255

The representative also has 15 days to write us if he or she thinks the amount of the fee is too low.

If we do not hear from you or the representative, we will assume you both agree with the amount of the fee shown.

**Other Social Security Benefits**

The benefit described in this letter is the only one you can receive from Social Security. If you think that you might qualify for any other kind of Social Security benefit in the future, you will have to file another application.

**Your Responsibilities**

The decisions we made on your claim are based on information you gave us. If this information changes, it could affect your benefits. For this reason, it is important that you report changes to us right away.

We have enclosed a pamphlet, "When You Get Social Security Disability Benefits...What You Need To Know." It will tell you what must be reported and how to report. Please be sure to read the parts of the pamphlet which explain what to do if you go work or if your health improves.

A state or other public or private vocational rehabilitation provider may contact you to talk about their services. The rehabilitation provider may offer you counseling, training, and other services that may help you go to work. To keep getting disability benefits, you have to accept the services offered unless we decide you have a good reason for not accepting.

You do not have to wait to be contacted about vocational rehabilitation services. You can contact the nearest state vocational rehabilitation office directly and let them know that you are interested in receiving services.

If you go to work, special rules can allow us to continue your cash payments and health insurance

coverage. For more information about how work and earnings may affect disability benefits, you may call or visit any Social Security office. You may wish to ask for any of the following publications:

- Social Security – Working While Disabled...How We Can Help (SSA Publication No. 05-10095).
- Social Security – If You Are Blind—How We Can Help (SSA Publication No. 05-10050).
- How Social Security Can Help With Vocational Rehabilitation (SSA Publication No. 05-10052).

**Other Information**

We are sending a copy of this notice to THOMAS P PILIERO and DAVID B KENNEDY.

**Do You Disagree With The Decision?**

This action supersedes our previous determination and is in accordance with the decision on your hearing request. You have already been notified of your appeal rights regarding the decision made on your hearing request and what you must do to have that decision reexamined. If you want this reconsideration, you may request it through any Social Security office. If additional evidence is available, you should submit it with your request. We will review the case and consider any new facts you have. A person who did not make the first decision will decide your case. We will correct any mistakes. We will review those parts of the decision which you believe are wrong and will look at any new facts you have. We may also review those parts which you believe are correct and may make them unfavorable or less favorable to you.

- You have 60 days to ask for an appeal.
- The 60 days start the day after you get this letter. We assume you got this letter 5 days after the date on it unless you show us that you did not get it within the 5-day period.
- You must have a good reason for waiting for more than 60 days to ask for an appeal.
- You have to ask for an appeal in writing. We will ask you to sign a Form SSA-561-U2, called "Request for Reconsideration". Contact one of our offices if you want help.

Please read the enclosed pamphlet, "Your Right to Question the Decision Made on Your Social Security Claim". It contains more information about the appeal.

**Things To Remember For The Future**

Doctors and other trained staff decided that you are disabled under our rules. But, this decision must be reviewed at least once every 3 years. We will send you a letter before we start the review. Based on that review, your benefits will continue if you are still disabled, but will end if you are no longer disabled.

**If You Have Any Questions**

We invite you to visit our website at www.ssa.gov on the Internet to find general information about Social Security. If you have any specific questions, you may call us toll-free at 1-800-772-1213, or call your local Social Security office at 1-614-469-6850. We can answer most questions over the phone. If you are deaf or hard of hearing, you may call our TTY number, 1-800-325-0778. You can also write or visit

any Social Security office. The office that serves your area is located at:

SOCIAL SECURITY
4177 EAST BROAD STREET
COLUMBUS, OH 43213

If you do call or visit an office, please have this letter with you. It will help us answer your questions. Also, if you plan to visit an office, you may call ahead to make an appointment. This will help us serve you more quickly when you arrive at the office.

/s/
Jo Anne B. Barnhart
Commissioner
Of Social Security

## LIST OF EXHIBITS

**Claimant: Wanda Glenn** **SSN: [OMITTED]**

| Exh. No | Part No. | Description | No. of Pages |
|---|---|---|---|
| | | **MEDICAL RECORDS** | |
| 1 | F | Catherization Procedure Records dated 3-02-03 from OSU Hospital | 3 |
| 2 | F | Myocardial Perfusion Report dated 8-14-96 from OSU Heart Center | 1 |
| 3 | F | Stress test Report date 09-01-99 from OSU Heart Center | 2 |
| 4 | F | Clinic Medical Records covering the period from 6-2-00 to 7-11-00 from OSU Hospital | 8 |
| 5 | F | Medical Records covering the period from 3-03-00 to 8-04-00 from Raj C. Patel, M.D. | 22 |
| 6 | F | Medical Report dated 8-31-00 from Choo Y. Rhee, M.D. | 5 |
| 7 | F | Medical Report dated 9-14-00 from Carl Leier, M.D., OSU Center for Wellness & Prevention | 6 |

| Exh. No | Part No. | Description | No. of Pages |
|---|---|---|---|
| 8 | F | RFC – Residual Functional Capacity Assessment – Physical (completed by DDS physician) dated 11-04-00, Paul Dillahunt, M.D. | 6 |
| 9 | F | Medical Reords covering the period 9-27-00 to 12-15-00 from Rajendra C. Patel, M.D. | 8 |
| 10 | F | Medical Report dated 01-04-01 from Choo Y. Rhee, M.D. | 3 |
| 11 | F | Medical Records covering the period from 10/20/00 to 10/15/01 from Dr. Rajendra Patel | 8 |
| 12 | F | Medical Report dated 6-20-00 from Carl V. Leier, M.D. | 3 |
| 13 | F | Medical Report of ECG dated 7-11-00 | 2 |
| 14 | F | Medical Report dated 9-27-00 from Pacemaker and Arrythjmia Services of The OSU Medical Center | 1 |
| 15 | F | Medical Report dated 10-11-00 from the Pacemaker and Arrythmia Services of the OSU Medical Center | 3 |

| Exh. No | Part No. | Description | No. of Pages |
|---|---|---|---|
| 16 | F | Medical Report dated 11-15-00 from the Pacemaker and Arrhythmia Services of the OSU Medical Center | 1 |
| 17 | F | Medical Report of Arrythmia Device Operation dated 2-28-01 from The Pacemaker Implant Department of OSU | 2 |
| 18 | F | Medical Report dated 4-11-01 from The Pacemaker and Arrthmia Services of the OSU Hospital | 3 |
| 19 | F | Medical Report dated 10-23-01 from The Pacemaker and Arrythmia Services of the OSU Medical Center | 1 |
| 20 | F | Medical Report dated 1-19-02 from The Pacemaker and Arrythmia Services of the OSU Medical Center | 4 |
| 21 | F | Medical Report dated 1-19-02 from Robert Hoover, M.D. | 1 |
| 22 | F | Medical Records dated 12/19/01 from Capitol City Cardiology, Dr. David Cowles | 3 |
| 23 | F | Medical Expert Analysis dated 3/13/02 from dr. Gordon Snider | 1 |

KENNEDY & ASSOCIATES, INC.
P.O. Box 159
Tinley Park, Illinois 60477-0159
tel.: 800-637-0593 * fax: 708-532-7847
e-mail: SSAAid@aol.com

The Honorable Thomas P. Piliero
Administrative Law Judge
Office of Hearings and Appeals
280 N High St Room 300
Columbus, OH 43215

March 12, 2002

**RE: Wanda Glenn**
**SS: [OMITTED]**

Dear Judge Piliero:

This letter addresses the issues to be decided regarding the aforementioned individual's claim for Social Security Disability Insurance Benefits, and sets forth her representative's argument for a favorable decision on this claim. Ms. Glenn presents before Your Honor on Wednesday, March 13, 2002, at 1:00 p.m. I, Valerie C. Barich, a staff attorney with Kennedy and Associates, will be present to represent Ms. Glenn. To the best of my knowledge, and after due inquiry, all relevant medical information has been identified and submitted.

## PROCEDURAL HISTORY

The claimant filed her application for Disability Insurance Benefits on August 11, 2000, alleging an onset date of April 30, 2000, due to severe dilated cardiomyopathy associated with extreme fatigue,

shortness of breath and tightness in the chest [Ex ID; 1 E/2]. She has no previous filings for disability benefits [Ex 2E/1], and her date last insured is December 31, 2004 [Ex 2E/1]. Her initial application and request for reconsideration were denied [Ex 1B/1; 3B/1], and the claimant's request for a hearing was timely filed [Ex 8E/1]. The claimant is scheduled for a hearing on March 13, 2002 at 1:00 p.m., and will be present with her representative.

## VOCATIONAL HISTORY

Ms. Glenn is a forty-nine (49) year-old individual with 12 years of formal education resulting in a high school diploma [Ex 1E/8]; she was forty-seven (47) years old at her alleged onset date. She last held substantial gainful activity from September, 1994 through April 30, 2000, as a full-time sales manager of the women's clothing department within Sears, Roebuck, & Company [Ex 4E/1-2]. Her duties included overseeing daily operations of the department, identifying and solving business problems, and setting high merchandising and customer service standards [Id]. In this job, she frequently-to-constantly walked, occasionally-to-frequently stood and handled merchandise, and occasionally sat, climbed, stood, and wrote reports [Ex 3E/1-8]. She estimated that she frequently carried 10 pounds, but did carry and lift as much as 20 pounds. Prior to this, Ms. Glenn was employed from September, 1993 through September 1994, as a full time replenishment team leader with Sears. From September 1986 through September 1993, Ms. Green was employed with Sears as a part-time sales associate. In this position, she stood for 5 hrs, walked for one hour, frequently lifted 10 pounds, but lifted as much as 20 pounds [Ex 3E/1-8].

Simultaneous with this part-time position, Ms. Glenn was employed full-time as an auditing clerk from January, 1988 through September, 1989, and part-time as an educational aid from September, 1985 through September 1987, and again in September, 1989 [Id.]. Following exacerbation of her cardiac status by increased stress on the job, Ms. Glenn ceased working on April 30, 2000; This was the date she and her treating cardiologist, Dr. Patel, agreed she should discontinue working due to severe dilated cardiomyopathy that was worsening and interfering with her ability to perform her work duties.

## MEDICAL HISTORY

The claimant's medical history is positive for hypertension, sudden cardiac death syndrome, chronic left bundle branch block, primary myocardial disease, and moderate LV systolic dysfunction with normal coronary angiography. Ms. Glenn has had significant systemic hypertension since 1984-1985 with antihypertensive therapy since that time [Ex 1F/1]; 4F/2]. In October, 1989, she survived sudden cardiac death [Ex 1F/1; 2F/1; 4F/2; 5F/2]. Catheterization at the time demonstrated normal coronary arteries with an overall ejection fraction of about 35 per cent [Ex 4F/2], and an AICD defibrillator system (epicardial pads) was surgically implanted. Its purpose was to prevent additional sudden death/malignant ventricular arrhythmia events, and maintenance of the device has been followed by Dr. Love [Ex 4F/2; 5F/2]. In 1993, the claimant began to experience chest pain and was hospitalized; Repeat catheterization again revealed normal coronary arteries, but also revealed global systolic dysfunction with an overall ejection fraction

of about 35 to 40 per cent [4F/2; 5F/2]. A left bundle branch block was discovered [Ex 2F/1), and she was hospitalized again in August 1996 for chest discomfort; In 1996, she had two defibrillator shocks that year, one while riding a bicycle and the other while performing a treadmill exercise test [4F/2-3].

In March, 2000, she returned to Raj C. Patel, MD, FACC, because of concerns about substernal chest tightness. Ms. Glenn described it as vague, heavy pressure lasting several hours at a time, and not always related to exertion or emotional excitement [Ex 5F/2]; While the episodes would come and go, they were occurring more frequently [Id.]. An electrocardiogram at that time showed chronic left bundle branch block with secondary ST changes [Id]. An Adenosine Cardiolite study revealed a fixed anterior defect and an ejection fraction as low as about 22 percent, a rate markedly reduced compared to past ejection fraction rates as high as 40-45 per cent [Ex 5F/3-5). Repeat catheterization in March, 2000, revealed patent coronary arteries, but an ejection fraction around 25 percent [Ex 4F/3]. Between March and June, 2000, Ms. Glenn reported increasing dyspnea on exertion, easy fatigability with increasing fatigue by the end of the day, and pedal edema with prolonged standing at work [Id.]. She was experiencing dyspnea going up two flights of stairs or walking about four blocks [Id.].

Because of the claimant's progressive LV dysfunction, Dr. Patel, the primary cardiologist, referred Ms. Glenn to Dr. Carl Leier regarding the possibility of a cardiac transplant [Ex 5F]. A June, 2000, examination revealed a weight of 189 pounds, standing blood pressure of 126/90, slightly diminished carotid arteries, jugular venous

distention above the clavicles with positive hepatojugular reflux, right ventricular lift moderately hypokinetic with palpable S4 gallop, precordium that was hypokinetic and wide rather than sustained in duration, a loud S4 gallop over the precordium, an occasional ectopic beat, and slightly diminished femoral pulses [Ex 4F/4]. An ECG study revealed normal sinus rhythm, left bundle branch block and an overall abnormal ECG [Ex 4F/6]. Overall, the June, 2000 examination revealed that Ms. Glenn had developed dilated cardiomyopathy with long-standing hypertension as her primary risk-etiological factor. As a result of this condition, she was then left with biventricular enlargement and dysfunction deemed systolic, and likely diastolic as well given her history of hypertension [Ex 4F/4]. Her overall function class at that time was graded to be "II-early III [Id]." At that time, she was taking Zestril, Lanoxin, Norvasc, Normodyne, Lasix, K-Dur, adult aspirin, calcium, and a multivitamin daily [4F/3]. In response to the examination, the Normodyne was converted to carvedilol, Aldactone was added to the treatment regimen, an oxygen consumption study was ordered in order to assess Ms. Glenn's candidacy for cardiac transplantation, and initiation of a regular exercise schedule with daily walking and weights was recommended [Id.].

Following work cessation and resultant stress reduction, Ms. Glenn had made some improvements by July, 2000 [Ex 5F]. However, she continued to experience good days, bad days, and periods where she felt extremely tired, fatigued, and easily run out of steam [Ex 5F/19]. Based on his July 28, 2000, examination of Ms. Glenn, Dr. Patel limited the claimant to lifting no weight, and evaluated Ms. Glenn to be totally disabled for her own occupation,

but was unable to determine the claimant's disability status as to any occupation [Ex 5F/22]. In October, 2000, the claimant's previous implanted ICD device was explanted from her abdominal area due to the battery at end of life and the patient's need for a change to a dual chamber system. The new "InSync" device, a new technique for patients with cardiomyopathy, was implanted by Dr. Charles Love in the pectoral area and involved both biventricular pacing and three leads [Ex 9F/2, 6; 10/10/00 Arrhythmia Device Operative Report, submitted to OHA 02/05/02]. In December, 2000, Ms. Glenn clinically appeared to be doing well, remaining out of significant failure, but still having good days and bad days. She was advised to return in 6 months. In April, 2001, she returned to Dr. Patel earlier than expected with concerns over her LV function. She was experiencing general fatigue, but had been slowly increasing her exercise regimen from walking two to three times per week up to four or five times a week for slightly longer distances [04/06/01 Treatment note, Raj C. Patel, Md, submitted to OHA 10/23/01]. Examination revealed an S4 gallop, and a blood pressure of 148/98. In addition, a 2-D echocardiogram at that time showed an left ventricular ejection fraction of 40 per cent [03/28/01 ECG Report, Capitol City Cardiology, submitted to 01-TA 10/23/01].

In February, 2001, Ms. Glenn had developed a mass in the area of the old pacemaker device. In response, Dr. Love proceeded with debridement of the pacemaker pocket which involved cutting and tying the leads to reduce bulk, and debridement of extensive, necrotic scar tissue [02/28/01 Arrhythmia Device Operative Report, Charles Love, MD, submitted to OHA 02/05/02]. On April 8, 2001, the

claimant presented to the emergency room with complaints of five to ten minutes of heart fluttering and shortness of breath [04/08/01 Emergency Report, submitted to OHA 02/05/02]. The final impression was palpitations, and the claimant was discharged home with instructions to follow up with her regular cardiologist in three days [Id.].

By August, 2001, her blood pressure was 140/90, and cardiac ausculation revealed regular rhythm with an impressive S4 gallop [08/03/01 Treatment note, Dr. Patel, submitted to OHA 08/15/01]. The claimant had reported recently increasing fatigue and exercise intolerance, but denied PND, orthopenea or leg edema [Id.]. In November, the claimant continued to have better exercise tolerance, however she remained fatigued out and short of breath, particularly at times of significant psychological stress [11/02/01 Treatment note, Dr. Patel, submitted to OHA 02/27/02]. However, this treatment note included the following handwritten comment: "Echo in Dec 2001, show moderate LV dysfunction...EF 35 to 40%." The interpretation of the claimant's performance on a December 19, 2001 ECG included the following: "(2) Left ventricular chamber shows mild chamber enlargement with moderate global LV systolic function with an estimated ejection fraction of about 35-40%...; (5) Color flow Doppler study shows mild tricuspid regurgitation. Pulse wave Doppler study shows mild-to-moderate reduction in LV compliance (12/19/01 ECG, Capitol City Cardiology, submitted to OHA 02/27/02]."

On January 18, 2002, the claimant presented to the emergency room with complaints of left arm and left chest pain, that her defibrillator fired, and some

complaints of paresthesias with recent initial of Plavix for questionable TIA [01/18/02 HRT Discharge Summary, submitted to OHA 02/05/02]. The device was the new defibrillator implanted by Dr. Love. Upon examination, Ms. Glenn's blood pressure was 143/98, her pulse was 106, and she appeared uncomfortable secondary to left chest and arm pain [01/18/02 Emergency Report, submitted to OHA 02/05/02]. Interrogation of the device revealed recordings most consistent with sinus tachycardia, and laboratory results revealed mildly low potassium level [01/18/02 HRT Discharge Summary, and Emergency Report, submitted to OHA 02/05/02]. The diagnosis was "arrhythmia, automatic implantable cardiovascular defibrillator fired [Id.]." Ms. Glenn was discharged home with no new prescriptions save for a supplement for her potassium [Id.], and a discussion with regard to her beta blocker therapy occurred [Id].

Admittedly, the residual functional capacity assessment provided for the Administration in November, 2000, and February, 2001, indicated the claimant is capable of light work [Ex 8F]. In part, the reviewing source indicated that the restrictions provided by Dr. Rhee and Dr. Leier are not supported by the medical evidence, specifically that there is no evidence that postural limitations apply. However, both Dr. Rhee and Dr. Patel, who had a longstanding treating relationship with the claimant that the examiner did not have, indicated that such postural activities precipitate symptomatology. Overall, the claimant remained, at all times since her alleged onset date of April 30, 2000, under physical restrictions by Choo Y. Rhee, MD. As the claimant's treating internal medicine physician, he stated in August, 2000, that Ms. Glenn suffered with

chest discomfort characterized by tightness without radiation, precipitated by walking or exertion, relieved by rest, and worsened since January, 2000 [Ex 6F/5]. He noted that the claimant's symptoms of recurrent or persistent fatigue, dyspnea, anginal discomfort, and palpitations occurred upon ordinary physical activity, and that her recovery may have been or may be delayed as a result of idiopathic dilated cardiomyopahty [Id.]. Finally, Dr. Rhee indicated that sitting, standing, walking, bending, lifting, carrying, handling objects, and traveling were restricted; He did not restrict the claimant's hearing, speaking, or mental activities [Id]. In January, 2001, Dr. Rhee assigned the same restrictions, indicated there had been no changed in the claimant's status since November, 2000, but that the claimant's ICD defibrillator has been changed to an InSync ICD [Ex 10F/2-3]. Again, these restrictions were indicated by the claimant's longtime treating physician in response to her delayed recovery, and lapse of hypertension and sudden cardiac death into chronic, severe dilated cardiomyopathy.

In addition, Dr. Patel has never released the claimant back to work since he first recommended to Ms. Glenn that she cease employment in April, 2000. In September, 2000, Dr. Patel responded to a disability inquiry on an Attending Physician Statement of Functional Capacity form provided to him. In it, he opined that Ms. Glenn was totally disabled from her own occupation, but that he could not determine her disability status as to any occupation [Ex 5F/21-22]. On November 20, 2000, Dr. Patel responded to another disability inquiry on a similar Attending Physician Statement form; However on this form, the two questions regarding disability evaluation were flipped. Instead of the

question in the first column relating to disability for the claimant's own occupation, as it had on the September, 2000, Attending Physician form, it referred to any occupation; in response, Dr. Patel indicated total disability for any occupation. Then, the question in the second column inquired about disability status regarding the claimant's own occupation, instead of inquiring into "any occupation" as the September, 2000 form inquired; To this question, Dr. Patel indicated "no." Arguably, if he had not examined the order of the questions, then his response is consistent with his earlier indication that he could not determine disability as to any occupation, and that Ms. Glenn was disabled for her own occupation. This November, 2000, evaluation was conducted at the time when the claimant had not developed any new symptoms and was remaining out of significant failure, but had just submitted to implantation of a new ICD device that not only responded to arrhythmias, but also aided in pumping blood to the heart.

In addition to the previously noted disability evaluations, Dr. Patel indicated as recently as October 15, 2001, the claimant's functioning remained restricted. In addition to findings of impaired myocardial function, Dr. Patel indicated that the severity of Ms. Glenn's symptoms and physical condition were aggravated by emotional stress. While Dr. Patel opined that the claimant would tolerate low stress jobs, he simultaneously opined that Ms. Glenn's symptoms were severe enough to "frequently" interfere with attention and concentration, and that her impairments or treatment would cause three absences from work per month. Again, this opinion was rendered by a longtime treating source who had referred the

claimant for implantation of a new cardiac device, referred the claimant for transplantation assessment, and provided consistent care while the claimant's left ventricular functioning deteriorated.

## DISABILITY ARGUMENT

At this point, the claimant, through her representative, asserts that she has not engaged in substantial gainful activity since April 30, 2000. The claimant further asserts that her severe dilated cardiomyopathy treated both conservatively and aggressively since April, 2000, persistent and easily fatigability, and exacerbation of cardiac symptomatology with stress and activities of daily living evidence a severe medically-determined cardiac impairment. As a result of her impairment, the claimant has been unable to tolerate the stress of employment, suffers with good and bad days, and has been unable to predict her pace and persistence at a task or household chore. She has had a period of improvement wherein she was increasing her physical activity; However, her reduced left ventricular functioning persisted to the point of necessitating explanting of 1989 defibrillator device, and implanting a newer "InSync" combination defibrillator/pacemaker device that not only responded to fibrillation events, but also proactively facilitated blood flow through the heart.

While she suffers with a medically-determined severe impairment diagnosed as severe, dilated cardiomyopathy via medically-accepted diagnostic techniques, it is questionable whether her condition meets or equals the severity requirements of any cardiac section of the Appendix I Listings of the Regulations. She did initially suffer with an ejection fraction of less than 30 per cent in March, 2000. It

was reported improved to at least 40 per cent by March, 2001, and at least 35 per cent by December, 2001. Despite failure to meet listing-level requirement of less than 30 per cent, the claimant continues to experience arrhythmia and some left arm and left chest pain. Left ventricular analysis in 1993 revealed left and right projection ventricular wall motion abnormalities, and a New York Heart Association functional class grading of I [Ex 1F/2]. And by June, 2000, she was reclassified as NYHA functional class II-early III [Ex 4F/4], and noted to have right ventricular lift palpable and moderately hypokinetic with palpable S4 gallop [Id].

In the alternative to meeting or equaling a listing, the claimant's severe impairment precludes her successful performance of both her past relevant work and all work at any exertional level. The claimant's past relevant work is light to medium in exertional requirements [Ex 3E/1]. Based on the residual functional capacity assessment completed for the Administration in November, 2000, and January, 2001, the claimant is limited to light work activity; this limitation would not preclude the performance of past relevant work. The claimant maintains, through her representative, that her impairment has resulted exertional and nonexertional limitations that are reasonably related to her diagnosed condition and clinical findings. These limitations preclude her from performing her past relevant work, and limit her residual functional capacity to less then a full range of sedentary work.

Most significantly, the claimant's cardiac symptomatology is often precipitated by minimal activity as indicated by her treating physicians. While the claimant was able to increase her physical

activity, medical testing subsequently revealed diminished ejection fraction and increased fatigue, left arm pain, and left chest pain with arrhythmia. Non-exertionally, Ms. Glenn's constant fatigue with the need to lie down and nap during the day, coupled with the unpredictable bad days renders her an unreliable employee. As indicated by Dr. Patel, bad days would cause this claimant to be absent from her work duties three times per month as a result of cardiac symptoms. Vocationally, this limitation on work activity in even an unskilled work environment, at any exertional range, precludes reliably appearing for scheduled workdays.

Her pace and concentration are additionally impacted by her fatigue. She has remained unable to perform activities of daily living without an unreasonable number and length of interruptions in activity due to the need for rest periods. Overall, this nonexertional limitation significantly prevents the claimant from maintaining a consistent pace or rate of production expected in an unskilled work environment, and precludes her from returning to the level of activity tolerance that would enable her to work on a sustained, consistent basis at any exertional or skill level.

## CONCLUSION

The claimant has a history of sudden cardiac death, and has gone on to develop a dilated cardiomyopathy with long-standing systemic hypertension as her primary risk-etiological factor. She suffers with left ventricular dysfunction with dyspnea and pain upon exertion. She has been treated both conservatively and aggressive, yet remains, as evidenced by notes and reports of her treating cardiologists, with a severe medically-determined impairment. Her

impairment has resulted in documented limitations of function including: restriction of postural activities such as sitting, standing, walking, bending, lifting, carrying and handling of objects; interruption of pace and persistence at a task; and the need for frequent rest periods during the day including daytime naps. While her cardiomyopathy and reduced left ejection fraction questionably meet or equal the level severity required of the Appendix I Listings of the Regulations, conservative and aggressive treatments have failed to provide long-term, consistent relief or improvement that would allow the claimant to return to a sustained level of work activity, even at a sedentary exertional level, without exacerbation of her cardiac dysfunction. The claimant is a younger individual with a semi-skilled work history; However, with her severe, chronic cardiac condition that has persisted and resulted in severe limitations, she falls within the purview of Section 201.00(h) of Appendix II of the Regulations. Pursuant to 20 C.F.R.§404.1520(f), Ms. Wanda Glenn, the claimant, is and has been disabled since April 30, 2000, and, therefore, respectfully requested that a decision be made in favor of the claimant's application.

Respectfully submitted,

David B. Kennedy
Representative

By: /s/_____
Valerie C. Barich
Staff Attorney
Kennedy & Associates

**Metropolitan Life Insurance Company**

**MetLife**

**MetLife DisAbility**
**PO Box 3017**
**Utica, NY 13504**

10/10/2000

Wanda Glenn
2566 Sonata Drive
Columbus, OH 43209

RE: Long Term Disability
Claim No: 690008108949
Group No: 31003
SS#: [OMITTED]
Group: SEARS ROEBUCK & COMPANY
Phone: 6142362588

Dear Wanda Glenn

Our records indicate that you are not receiving Social Security Disability Insurance Benefits.

Since you have been out of work, you may be eligible for such disability insurance benefits. You should be aware that you have the right to be represented by a qualified person in dealing with the Social Security Administration at any stage of your claim.

If you are approved for Social Security Insurance Benefits, you will realize several advantages:

Social Security Disability Insurance Benefits increase automatically to reflect rises in the cost of living.

As soon as you have been entitled to Social Security Disability Insurance Benefits for 24 consecutive months, you become eligible for Medicare coverage, even though you are under age 65.

Failure to establish a claim for Social Security Disability Insurance Benefits may adversely affect your Social Security Old-Age (Retirement) Benefits.

Since it is to your advantage to receive Social Security Disability Insurance Benefits, we have given your name to **Kennedy & Associates**, a firm that specializes in obtaining Social Security Disability Insurance Benefits for claimants.

**Please contact Kennedy & Associates at 1-800-637-0593 in the near future to discuss the feasibility of pursuing a claim for Social Security Insurance Benefits.**

MetLife will reduce any overpayment created by your receiving retroactive Social Security Disability Benefit payments by the fee charged by your Representative up to $4,000.00. The Representatives have agreed not to charge other expenses caused by their development of your case. Statistics have shown that people with representation have been more successful in obtaining Social Security Disability Insurance on appeal.

**If you currently have an attorney, or other qualified person representing you, simple advise Kennedy & Associates or MetDisability. You may qualify for this reduction also.**

This is a voluntary program. Please extend your full cooperation to the representative who helps you as he/she will be doing everything possible to help you

and your family in receiving Social Security Disability Insurance Benefits.

Should Social Security Disability Benefits be awarded while you are represented by Kennedy & Associates and your application results in a retroactive award, a recalculation of the benefits properly payable during the retroactive period will be performed. This adjustment may result in an overpayment and you will be responsible for reimbursing MetLife for monies advanced prior to your Social Security award from the lump sum check sent by Social Security.

Yours truly,

/s/

Ed Peters
Social Security Specialist
Met DisAbility
1-800-300-4296

**Cc: Kennedy & Associates**
**SEARS ROEBUCK & COMPANY**

# LONG-TERM DISABILITY INSURANCE FOR SALARIED ASSOCIATES

**...an extra measure of security**

**SEARS**

**SUMMARY PLAN DESCRIPTION**

*If you are unable to work for a long period of time because of a serious illness or injury, your paychecks would stop—but you'd still have regular living expenses. Sears Group Long-Term Disability (LTD) Insurance Plan makes sure that you'll have a continuing source of income to help meet those expenses throughout a disability.*

*This booklet is a Summary Plan Description which describes the provisions of the Plan that apply to salaried associates. Should your employment status change to that of hourly, contact your Human Resources representative or unit manager to obtain a copy of the booklet which describes the provisions that apply to hourly associates.*

*The provisions outlined in this booklet apply to participants who become Totally Disabled on or after January 1, 1995.*

## TABLE OF CONTENTS

A Summary of How LTD Works ..... 3

Participating Companies ..... 3

Eligibility and Enrollment ..... 4
- Normal Enrollment ..... 4
- Late Enrollment ..... 4

When Coverage Begins ..... 5
- Normal Enrollment ..... 5
- Late Enrollment ..... 5
- Actively at Work ..... 5

When Coverage Terminates ..... 6
- Suspension of Coverage ..... 6

Payment of Contributions ..... 7
- Contribution Amount ..... 7
- LTD Contributions During Total Disability ..... 8

Description of Benefits ..... 8
- Meaning of Total Disability ..... 8
- Waiting Period ..... 9
- Recurring Disabilities ..... 9
- Medical Evidence ..... 9
- When Benefits Are Not Payable ..... 10
- Pre-Existing Conditions ..... 10
- Mental/Nervous Disorders ..... 11
- When Benefits End ..... 11

Amount of Benefits ..... 12
- Increases in Earnings ..... 12
- Decreases in Earnings ..... 12
- Leave of Absence at Time of Recalculation ..... 12
- Monthly LTD Covered Earnings ..... 12

Amount of Monthly Benefit While Totally Disabled ..... 13
Other Income Benefits ..... 13
Social Security Benefits ..... 14
Workers' Compensation, Benefits ..... 15
Overpayments ..... 15

Rehabilitative Employment ..... 16

Amount of Benefits—Examples ..... 16

Applying for Benefits ..... 18
Claim Filing Procedures ..... 18
Payment of Benefits ..... 19
If Your Claim Is Denied ..... 19

Definitions ..... 20

Other Provisions ..... 21
Assignment ..... 21
Misstatements and Errors ..... 21
Overpayments ..... 21
Facility of Payment ..... 21
Legal Actions ..... 21
Plan Discontinuance ..... 21

Plan Documents ..... 22

Additional Information About the Plan ..... 22
Plan Name and Identification ..... 22
Type of Plan ..... 23
Plan Year ..... 23
Plan Financing ..... 23
Plan Administration ..... 23
Plan Amendment and Termination ..... 24

ERISA Rights ..... 24

**A SUMMARY OF HOW LTD WORKS**

If you are unable to work due to a serious illness or injury that lasts longer than 140 out of 180 consecutive days (the "Waiting Period"), you may be entitled to benefits from the LTD Plan.

In order to qualify for LTD benefits, the following rules apply:

- To qualify for LTD benefits during the Waiting Period and for the next 24 months, you must be unable to perform the material duties of your own job.
- To continue receiving LTD benefits beyond 24 months, you must be disabled to the point that you are unable to perform the duties of your own job and all other jobs for which you are Reasonably qualified.

Subject to certain limitations, you will be eligible to receive LTD benefits as long as you remain disabled under these definitions, but not beyond the date of your death or age 65, whichever comes first. However, if your disability starts after age 62, benefits are paid according to a schedule and may extend beyond age 65.

These provisions are explained in more detail in the following pages of this booklet.

## PARTICIPATING COMPANIES

The Plan covers eligible associates of Sears, Roebuck and Co. and the following entities:

- Sears Investment Management Co.
- Sears Roebuck Acceptance Corp.
- Sears Roebuck de Puerto Rico, Inc.
- Sears Buying Services. Inc.
- Sears Logistics Services, Inc.
- Circle of Beauty Inc.
- Sears Shop-at-Home Services, Inc.
- Sears National Bank
- Wilkes-Barre Logistics Services, Inc.
- Delano Logistics Services, Inc.
- Sears Development Co. (effective 4/1/96)

## ELIGIBILITY AND ENROLLMENT

You are eligible to enroll in the LTD Plan if, according to Sears established personnel practices, you are a salaried associate of a participating company.

Participation in the Plan is voluntary. To enroll for LTD, you must fill out and sign an enrollment form and return it to your Human Resources representative or unit manager. This form will authorize Sears to deduct your contributions for LTD coverage from your paycheck.

### Normal Enrollment

You have one month from the date you first become eligible to enroll in the Plan. If you are absent on the day you become eligible, you have one month from the day you return to Active Work to enroll. If you

enroll during this time, you will not be required to provide evidence of good health.

**Late Enrollment**

If you enroll more than one month after the date you first become eligible, you must provide evidence of good health that is satisfactory to MetLife before your coverage can begin. You will also need to provide evidence of good health if your coverage ends because you cancel it or fail to pay your contributions and you later want to re-enroll. Forms for this purpose may be obtained from your Human Resources representative or unit manager. If additional medical information or a medical examination is necessary, you will be required to pay the cost. Your coverage will not begin until your enrollment has been approved by MetLife.

---

## WHEN COVERAGE BEGINS

Coverage in the LTD Plan always begins on the first day of a month.

**Normal Enrollment**

If you enroll in the Plan when you first become eligible, your coverage will begin is follows:

- If you return your completed enrollment form on the first day of a month, your coverage will begin on that day.
- If you return your completed enrollment form on a day other than the first day of a month, your coverage will begin on the first day of the following month.

For example, if you are hired as a salaried associate on July 16 and you complete and return your

enrollment form on or before August 1, your coverage will begin on August 1. However, if you were to complete and return your enrollment form on August 10, your coverage would not begin until September 1.

**Late Enrollment**

If you do not enroll during your normal enrollment period, or if you cancel your LTD coverage and later want to re-enroll, your coverage will begin:

- on the date that MetLife approves your application for coverage, if your application is approved on the first day of a month; or
- on the first day of the month following the date that MetLife approves your application for coverage, if your application is approved on a day other than the first day of a month.

**Actively at Work**

However, if you are not at work due to illness or injury on the day your coverage is supposed to begin, your coverage will not begin until:

- the day you return to Active Work, if you return on the first day of a month; or
- the first day of the month following your return to Active work, if you return on a day other than the first day of a month.

## WHEN COVERAGE TERMINATES

Your coverage ends on the earliest of the following dates:

- the end of the month in which your employment terminates;
- the end of the month in which you are placed on an approved Military Leave of Absence if your leave becomes effective after the first of a month, or
- the end of the month prior to being placed on an approved Military Leave of Absence if your leave becomes effective on the first of a month;
- the end of the month in which you cancel your membership in the Plan;
- the end of the month for which you last made a required contribution;
- the end of the month in which you no longer meet eligibility requirements;
- the date of your death; or
- the date the Plan terminates.

If your coverage ceases due to Military Leave of Absence, you will be offered the opportunity to re-enroll upon your return to Active Work.

### Suspension of Coverage

You may not continue your LTD coverage while you are on a Unit Closing, Layoff, or Personal Leave of Absence. However, if your have of absence becomes effective after the first of a month, you must make

the required contributions for that month, and your coverage will continue until the end of the month.

Your coverage will begin again on the first day of the month which coincides with or immediately follows your return to Active Work. You will not need to provide evidence of good health.

## PAYMENT OF CONTRIBUTIONS

You pay the full cost of your membership in the Plan. You do so by making contributions through payroll deductions. Deductions for salaried associates are made at the end of each month for-coverage that month.

LTD coverage is provided on a monthly basis. Therefore, if you are covered for any portion of a month, you are covered for the entire month and a full month's contributions are required.

*Q*
*How much will I pay for LTD Coverage?*

In the event you have no earned income from which to deduct your contributions when they are due, Sears will advance up to one month's contributions for you. However, you must reimburse Sears for the advanced contributions before the next contribution is due. If reimbursement is not made on a timely basis, coverage will terminate on the last day of the month for which your last

*A*
*LTD contribution rates are subject to change. Contact your Human Resources representative for current rates.*

contribution applied.

You may continue your membership during an authorized illness, Workers' Compensation, or Family Care Leave of Absence. In such cases, you must continue paying required contributions during your absence to maintain your coverage.

**Contribution Amount**

Your contribution amount is based on your Eligible Annual Earnings, up to a maximum of $150,000. When you first enroll, Sears will estimate your Eligible Annual Earnings. Sears may also estimate your Eligible Annual Earnings in other situations.

Each January, the amount of your required contribution will be recalculated, based on your Eligible Annual Earnings in the prior Payroll Year. The new contribution amount will be effective February 1. (See page 12 for exceptions to this rule.)

Eligible Annual Earnings are calculated in accordance with Sears established personnel practices and include most types of taxable income, such as:

- regular pay; and
- commissions and incentives.

Eligible Annual Earnings do not include Workers' Compensation statutory payments, State Disability

payments, LTD benefits, and earnings such as contest awards, suggestion awards, moving allowances, etc.

**LTD Contributions During Total Disability**

If you become Totally Disabled, you must continue to pay your LTD contributions during the Waiting Period. Once you qualify for LTD benefits, you will not have to pay any further LTD contributions during the period in which you receive LTD benefits, beginning the first of the month which coincides with or immediately follows the date that benefits become payable.

---

**DESCRIPTION OF BENEFITS**

If:

- you become Totally Disabled as a result of an illness or injury;
- you are covered by the Plan at the time you become Totally Disabled;
- you remain Totally Disabled throughout the Waiting Period;
- you continue to be Totally Disabled after completing the Waiting Period; and

- you are under the regular care and treatment of a Physician;

you will be entitled to LTD benefits. Because you pay the full cost of your membership in the Plan, LTD benefits are free from federal income tax under current tax laws.

Benefits begin after you complete the waiting Period, and continue as long as you remain Totally Disabled until the end of your Maximum Benefit Period (see page 11).

*Q*

*When do LTD benefits being?*

*A*

*LTD benefits begin after you have been Totally Disabled for 140 days (out of 180 consecutive days).*

These provisions are discussed in greater detail in the following pages.

**Meaning of Total Disability**

To receive benefits from the Plan, you must be Totally Disabled.

As used in the Plan, the term "Total Disability" has two definitions:

1. During the Waiting Period and for the next 24 consecutive month's, "Total Disability" means that because of Illness or Injury, you cannot perform the material duties of your own

job.

2. After that time period, you will no longer be considered Totally Disabled unless you are totally incapable of performing the material duties of any gainful occupation for which you are reasonably qualified based on your training, education, and experience.

If you are engaged in any occupation for wage or profit during the Waiting Period, you are not Totally Disabled. After the Waiting Period, if you are engaged in any occupation for wage or profit other than Rehabilitative Employment approved in advance by MetLife, you are not Totally Disabled.

**Waiting Period**

If you are Totally Disabled due to the same or related Illness or Injury for 140 days within any 180-consecutive-day period, you will have completed the Waiting Period.

**Recurring Disabilities**

If you complete the Waiting Period, begin to receive LTD benefits, return to Active Work, and resume your LTD contributions, you may be required to complete another Waiting Period if you become Totally Disabled again.

This second period or Total Disability will be treated as a continuing disability if it;

- begins within six months following your return to Active Work; and
- is due to the same or related causes.

Benefits will resume immediately without a new Waiting Period, and the Maximum Benefit Period will apply to the total benefits in all periods.

Otherwise, the second period of Total Disability will be treated as a new disability and you will need to complete a new Waiting Period before LTD benefits can begin again.

**Medical Evidence**

To qualify for benefits under the Plan, Total Disability must be supported by current medical documentation. You must be under the regular care of a qualified Physician under a course of treatment appropriate for the disability.

You may be asked to undergo a medical examination by a Physician designated by MetLife. For example, if your Physician cannot substantiate a finding of Total Disability with objective evidence, an independent evaluation may be required. When MetLife requires you to undergo an examination by their appointed Physician, this examination will be at MetLife's expense.

If you cannot or will not provide conclusive medical evidence of Total Disability, LTD benefits will be denied or discontinued.

Continuation of LTD benefit payments will require ongoing certification of disability based on updated medical documentation. MetLife will determine how often you will need to provide updated medical documentation.

**When Benefits Are Not Payable**

LTD benefits will not be paid if:

- you are not under the regular care of a Physician;
- you do not submit satisfactory proof of your Total Disability to MetLife;
- you are engaged in any occupation for wage or profit, except for Rehabilitative Employment;
- your Total Disability begins after your coverage has been terminated or suspended; or
- your Total Disability is the result of a Pre-Existing Condition.

Additionally, LTD benefits are not paid for disabilities resulting from:

- intentionally self-inflicted injuries (while sane or insane);
- insurrection, riot, or war;
- your services in the armed forces of any country; or
- your participation in a felony.

**Pre-Existing Conditions**

A "Pre-Existing Condition" is an Injury or Illness that occurred or began before you became a Plan member. You will nor be entitled to LTD benefits if, for that condition, you took prescribed drugs or medicine or received medical treatment or consultation, medical care or services, or diagnostic tests in the six months before you became a Plan member.

However, you will be entitled to LTD benefits for a Pre-Existing Condition if your Total Disability due to that condition begins 12 or more months after you become covered by the Plan.

**Mental Nervous Disorders**

Payment of LTD benefits is limited to a maximum of 12 consecutive months if the disability results from a mental and nervous disorder.

A disability is due to a mental and nervous disorder if:

- it is due to mental or emotional disease or disorder of any kind; and
- you would not be Totally Disabled in the absence of the mental and nervous disorder.

However, if you are confined at the end of that 12-month period in a hospital or other similar institution which is licensed to provide care and treatment for such disorders, then LTD benefits will continue during the time that you continue to be confined (but not beyond the Maximum Benefit Period), and will stop immediately upon your discharge. You will not be eligible for any further benefits for that disability, even if it recurs.

**When Benefits End**

As long as you remain Totally Disabled, continue under the regular care of a Physician, continue to provide evidence of that disability to MetLife, and are not disabled from a mental and nervous disorder, LTD benefits will continue until the end of the Maximum Benefit Period that applies – to you or until your death, if sooner.

The "Maximum Benefit Period" that applies to you is the period shown in the right-hand column of this chart opposite your age at the time benefits under the Plan begin for your Total Disability.

| AGE WHEN BENEFITS BEGIN | MAXIMUM BENEFIT PERIOD |
|---|---|
| Up to and including age 61 | To age 65 |
| 62 or 63 | To age 65 or for 31 months, whichever is later |
| 64, 65, or 66 | 31 months |
| 67 | 31 months, but not beyond age 70 |
| 68 | To age 70 |
| 69 or older | 12 months |

## AMOUNT OF BENEFITS

The amount of the benefit you will receive during a period of Total Disability is based on your Eligible Annual Earnings.

Your Eligible Annual Earnings are calculated during the month of January and are based on your earnings in the prior Payroll Year.

### Increases in Earnings

If, at the time of the calculation, your Eligible Annual Earnings have increased to qualify you for a higher amount of LTD coverage, the increase will be effective the following February 1.

**Decreases in Earnings**

If, at the time of the calculation, your Eligible Annual Earnings have decreased to qualify you for a lesser amount of LTD coverage, the decrease will be effective the following February 1. However, for salaried associates, a decrease will only take effect if your Eligible Annual Earnings have qualified you for a lesser amount of LTD coverage for two years in a row.

Any Payroll Year in which you were on an approved leave of absence for two months or longer will be ignored for purposes of decreases.

**Leave of Absence at Time of Recalculation**

If you are on an approved leave of absence on the day the recalculation is made, a recalculation will not be done for you. Neither your contribution amount nor the amount of your LTD coverage will be changed.

**Monthly LTD Covered Earnings**

Your Monthly LTD Covered Earnings are equal to your Eligible Annual Earnings in effect on the day after completion of the Waiting Period, rounded to the next higher thousand, and divided by 12.

For instance, if your Eligible Annual Earnings fall between $47,000.01 and $48,000.01, your Monthly LTD Covered Earnings are $4,000 ($48,000 divided by 12).

**Amount of Monthly Benefit While Totally Disabled.**

The amount of the monthly LTD benefit you win receive while you are Totally Disabled is equal

to 60% of the First $12,500 of your Monthly LTD Covered Earnings less (a) any Other Income Benefits to which you are entitled and (b) 50% of your Rehabilitation Earnings, if any.

If necessary, your monthly LTD benefit will be reduced so that the total amount you receive from LTD, Rehabilitation, and Other Income Benefits does not exceed your Monthly LTD Covered Earnings.

The maximum amount of monthly LTD benefit you can receive from the Plan is $7,500.

The minimum amount of monthly LTD benefit you can receive from the Plan is $100, unless MetLife has made an overpayment of benefits to you (see page 15).

*Q*

*How much will my LTD benefit be?*

*A*

*LTD will pay you up to 60% of your pre-disability income when combined with other income such as Social Security and Workers' Compensation.*

**Other Income Benefits**

Other Income Benefits you are eligible to receive affect the amount that the Plan pays you in monthly LTD benefits.

Other Income Benefits include:

- Social Security benefits payable to you, your spouse, your child, or your children because of your disability or on account of your age;
- any benefits you are eligible to receive under Workers' Compensation or similar laws, whether paid in a lump sum or as periodic payments. This includes (but is not limited to) permanent disability awards, temporary disability awards, and compromise settlements;
- any disability income benefits you are eligible to receive under any compulsory municipal, state, or federal government disability plans or laws (excluding any V.A. benefits); and
- any disability income benefits you are eligible to receive under any compulsory benefit act or law under which any employer makes contributions or payroll deductions, such as the Puerto Rico Non-Occupational Disability Benefits Act #139 and Chauffeurs Social Security Act #426.

All amounts available to you as Other Income Benefits will be used to calculate your monthly LTD benefit whether or not you actually apply for and receive those amounts.

For example, if you are covered under the federal Social Security Act for disability or old age benefits for yourself and your dependents or if your Total Disability is work-related and you are eligible to apply for Workers' Compensation benefits, the Plan will assume you are receiving these benefits. The Plan estimates the benefits you and your dependents are eligible to receive and uses this amount in the calculation of your monthly LTD benefit. Therefore,

it is to your advantage to apply promptly for any other benefits to which you may be entitled.

**Social Security Benefits**

You can request assistance in applying for Social Security benefits by contacting MetLife's Group Long-Term Disability Claim Department.

Often, the approval or denial of a claim for Social Security benefits takes quite a while. Therefore, MetLife has the right to estimate Social Security benefits during the first 24 months of your disability benefit period. Included in the estimate will be Social Security benefits for you, your spouse, and your children.

However, if not later than 90 days following the date of the first LTD monthly payment, you provide MetLife with written confirmation from the Social Security Administration that you have applied for Social Security benefits, then your monthly LTD benefit will not be reduced by estimated Social Security benefits.

MetLife will require you to sign an agreement:

- confirming that you will repay MetLife any overpayments caused by receipt of Social Security benefits, including retroactive payments; and
- authorizing MetLife to obtain information on awards directly from the Social Security Administration.

When MetLife receives notification of your Social Security award or denial, it may cause a change in the amount of your monthly LTD benefit. For instance, if MetLife had been estimating your Social Security benefits at $500 per month and you are

awarded only $400 per month, MetLife will recalculate your LTD monthly benefit and pay you amounts owed to you for past months in a lump sum. On the other hand if you are awarded benefits that are greater than those that MetLife had been estimating, or if MetLife did not reduce your LTD benefit by estimated Social Security benefits, then you will be required to repay MetLife for the resulting overpayment.

Once you begin receiving LTD benefits from the Plan, your LTD benefit will not be reduced to reflect changes in your Social Security disability or retirement benefits due to cost-of-living increases. However, your monthly benefit will be adjusted to reflect changes in your Social Security payments due to changes in your marital or family status.

**Workers' Compensation Benefits**

If you receive benefits in the form of a lump sum under a Workers' Compensation or similar law, the monthly equivalent of these benefits will be determined as follows:

- If the lump-sum payment specifies the number of months for which the award or settlement is applicable, then the monthly equivalent is the dollar amount of the lump-sum payment divided by the number of months specified.
- If the lump-sum payment does not specify the number of months for which the award or settlement is applicable, then the monthly equivalent is the maximum Workers' Compensation benefit available under state law for the type of disability you have.

The amount of the monthly equivalent will be used in the calculation of your monthly LTD benefit until the total amount of the award or settlement is exhausted.

**Overpayments**

If it is determined that LTD benefits were overpaid to you, you will be required to repay Metlife for the overpayment. MetLife has the right to recover overpayments by applying them against all or part of future monthly LTD benefits until the overpaid amount has been recovered.

---

## REHABILITATIVE EMPLOYMENT

*Q*
*I've been receiving LTD benefits but would like to try to work. Will my LTD stop?*

*A*
*MetLife may approve your return to employment as rehabilitative. In that case, you could continue to receive a portion of your LTD*

The Plan provides for a program designed to help you return to active, permanent work. However, such a program must be approved by MetLife, Rehabilitation programs may include training, physical therapy, or part-time work in your old job or a new job.

You will be considered to be engaged in a rehabilitative program if the following conditions are met:

- you have completed the Waiting Period;
- you are Totally Disabled; and
- after completion of the Waiting Period you begin a program of rehabilitative

*benefit. Contact your MetLife claim adjuster to discuss the possibilities.*

employment for wage or profit, approved in writing in advance by MetLife.

You may receive LTD benefits for up to 24 months while you are Totally Disabled and engaged in Rehabilitative Employment as part of a rehabilitation program. "Rehabilitative Employment" is defined as employment for wage or profit that is intended to retain you for productive employment. MetLife determines what type of employment qualifies for Rehabilitative Employment.

While you are in a period of Rehabilitative Employment, your monthly LTD benefit is offset by 50% of your Rehabilitation Earnings.

---

**AMOUNT OF BENEFITS — EXAMPLES**

**The following examples show how the Plan works.**

| EXAMPLE 1 — NO OTHER INCOME BENEFITS OR REHABILITATION EARNINGS |
|---|
| **Assume your Eligible Annual Earnings are $48,000. Therefore, your Monthly LTD Covered Earnings are $4,000 ($48,000 divided by 12). Your monthly LTD benefit is calculated as follows:**<br>**$4,000 x 60% = $2,400 from the Plan** |

**EXAMPLE 2 - INDIVIDUAL SOCIAL SECURITY BENEFITS**

**As in Example 1, assume your Eligible Annual Earnings are $48,000, and your Monthly LTD Covered Earnings are $4,000. Assume you apply for and receive a Social Security disability benefit of $800 per month. Your monthly LTD benefit is calculated as follows:**

**$4,000 x 60% = $2,400**

**minus**

**your monthly Social Security benefit ($800)**

**equals**

**$1,600 from the Plan**

## EXAMPLE 3 – INDIVIDUAL WITH INDEPENDENT CHILDREN

**As in Example 2, assume your Monthly LTD Covered Earnings are $4,000. However, because you have dependent children, you apply for and receive a family Social Security disability benefit in addition to your individual Social Security disability benefit, totaling $1,200 per month. Your monthly LTD benefit is calculated as follow:**

**$4,000 x 60% = $2,400**

**minus**

**your monthly individual and family Social Security disability benefit ($1,200)**

**equals**

**$1,200 from the Plan**

**EXAMPLE 4 - INDIVIDUAL AFTER AGE 65**

**Assume you become Totally Disabled at age 66, your Monthly LTD Covered Earnings are $4,000, and you apply for and receive a Social Security retirement benefit of $1,000 per month, Your monthly LTD benefit is calculated as follows:**

**$4,000 x 60% = $2,400**

**minus**

**your monthly Social Security retirement benefit ($1,000)**

**equals**

**$1,400 from the Plan**

**EXAMPLE 5 - REHABILITATION EARNINGS**

**Assume your Monthly LTD Covered Earnings are $4,000 and, during Total Disability after Plan benefits begin, you begin earning $2,500 a month from Rehabilitative Employment. Assume you have no Other Income Benefits. Your monthly LTD benefit is calculated as follows:**

**$4,000 x 60% = $2,400**

**minus**

**50% of your earnings from Rehabilitative Employment ($2,500 x 50% = $1,250)**

**equals**

**$1,150 from the Plan**

**Therefore, your total monthly payments from both the Plan and Rehabilitative Employment would be $3,650 ($1,150 Plan benefits and $2,500 Rehabilitation Earnings).**

## APPLYING FOR BENEFITS

### Claim Filing Procedures

**If you suffer an Illness or Injury and it appears that you will be disabled for more than 20 weeks, you should ask your Human Resources representative to obtain an LTD Claim Kit for you. We encourage you to begin the claim filing process after you have been out of work for approximately eight weeks. A claim must be filed within 20 days after completing the Waiting Period, or as soon as is reasonably possible.**

**The LTD Claim Kit contains several forms. When you receive the Kit, complete and sign the front side**

of the claim form tided "Claimant's Statement of LTD Claim." You should then request your Physician to complete the remainder of that form. A return envelope will be provided for your Physician to return the form to Sears.

You will also need to complete the Training, Education, and Experience Statement; the Consent for Release of Information; and the Reimbursement Agreement. You should return these to Sears in the return envelope which will be included in the Claim Kit.

Upon receipt of the information from you, your Physician, and Sears, MetLife will evaluate the information and make a decision regarding your claim. It may be necessary for MetLife to request additional information or schedule an independent medical examination in order to reach a final decision regarding your claim.

**Payment of Benefits**

Upon approval of your claim, you will be paid all benefits due you up until that time (from the day following completion of the Waiting Period through the end of the month before the date of approval) in one lump sum. Subsequent payments will be made on a monthly basis. All payments will come directly to you from MetLife. For each day of a partial month, 1/30 of a full month's benefit is payable.

Benefits will be paid to you, or if you die, any applicable benefits remaining will be paid to your estate.

**If Your Claim Is Denied**

If your claim is denied, you will be notified in writing by MetLife. This notification will tell you about your

rights to have a review of the decision and will tell you what you must do to request the review. You will then have 60 days in which to appeal your claim in writing to:

MetLife
Group Long-Term Disability Claims
P.O. Box 3043
Utica, NY 13504

MetLife will reevaluate all the information, and you will be informed of the decision in a timely manner.

---

**DEFINITIONS**

**"Actively at Work"** or **"Active Work"** means you are performing for Sears the duties of your employment at the place and in the manner in which the duties of your employment are usually and customarily performed.

**"Eligible Annual Earnings"** means annual benefit earnings as determined by Sears established personnel practices.

**"Illness"** means pregnancy or disease which causes a deterioration in the state of health of the afflicted person.

**"Injury"** means accidental bodily injury.

**"Payroll Year"** means a 12-month period determined according to Sears established personnel practices.

**"Physician"** means a person who is licensed or otherwise legally authorized to administer medical care or treatment so long as the person is acting within the scope of his/her license or authorization. "Physician" also means an accredited Christian

Science practitioner listed in the current issue of the *Christian Science Journal*.

**"Rehabilitation Earnings"** means the amount of wage or profit you receive because you are engaged in Rehabilitative Employment.

**"Rehabilitative Employment"** means a type of employment that MetLife accepts as being employment which is designed to rehabilitate you while you are Totally Disabled and for which you receive wage or profit.

**"Totally Disabled"** or **"Total Disability"** is defined on page 8.

**"Waiting Period"** is defined on page 9.

---

## OTHER PROVISIONS

### Assignment

You may not assign your LTD benefits to any other person or entity.

### Misstatements and Errors

If your age is misstated, the duration of your benefits will be adjusted accordingly.

Clerical errors will not void coverage which should be in force, nor will they continue coverage which should have ended. When an error is found, a fair adjustment in the contribution or amount of benefit will be made.

No statement made by you can be used to contest your coverage after your coverage has been in effect for two years. No statement of yours can be used to contest your coverage unless it is in writing and signed by you, and a copy was given to you.

**Overpayments**

If overpayments are made by MetLife, MetLife has the right to recover the amount of overpayment from you, your estate, or the person to whom payments were made.

**Facility of Payment**

If Plan benefits become payable, and you are a minor or, in MetLife's opinion, legally incapacitated, MetLife may make payment of $2,000 or less to an individual or institution it believes has assumed custody or principal support of you. Payments made in good faith under this provision will fully discharge MetLife to the extent of the payment.

**Legal Actions**

You must wait at least 60 days after filing an LTD claim before you may bring a lawsuit involving LTD benefits. Lawsuits may not be brought more than three years after an LTD claim was or should have been filed.

**Plan Discontinuance**

You will he given written notice by Sears at least 15 days before the date of any discontinuance of the LTD Plan.

---

**PLAN DOCUMENTS**

This booklet is the Summary Plan Description (SPD) for the Plan required by the Employee Retirement Income Security Act of 1974 (ERISA).

The detailed terms and conditions of the Plan are contained in the insurance certificate which is part of the group insurance policy issued by MetLife to Sears, Roebuck and Co. The policy is the controlling

document in all respects. If there are any discrepancies between this booklet and the policy provisions, the policy provisions will govern.

You may obtain a copy of the Insurance Certificate by sending a written request to:

MetLife
Group Long-Term Disability Claims
P.O. Box 3045
Utica, NY 13504

The complete policy will be available for your examination in the Sears Corporate Benefits Department. As an alternative, upon written request to the Plan Administrator, it will be mailed to the Human Resource Department of your unit. Your unit will notify you when the policy is available. You will then have 10 days within which to complete your examination of it.

As another alternative, upon written request to the Plan Administrator, a copy of the Policy will be provided to you at a cost no greater than $.25 per page.

---

## ADDITIONAL INFORMATION ABOUT THE PLAN

### Plan Name and Identification

The official name of the Plan is the "Sears Group Long-Term Disability Insurance Plan."

The Plan is identified by the following numbers in accordance with the rules of the Internal Revenue Service:

- Employer Identification Number-36-1750680
- Plan Number-506

**Type of Plan**

The Plan is a group insurance plan governed by the Company's group insurance policy with MetLife, One Madison Avenue, New York, NY 10010.

**Plan Year**

The Plan year is the calendar year, January 1 through December 31.

**Plan Financing**

The Company intends that the Plan be funded solely by associate contributions. However, at the discretion of the Company, the Plan may be funded by a combination of associate and Company contributions. Sears pays monthly premiums to MetLife. Benefits are payable from Metlife.

**Plan Administration**

Sears, Roebuck and Co. administers the Plan through a Plan Administrator. The Plan Administrator is the Manager, Personnel Policy and Technical Support.

The Plan Administrator has the authority to determine questions arising under the provisions of the Plan, including the power to determine the rights and eligibility of associates, participants, or any other persons, and to remedy ambiguities, inconsistencies, or omissions.

MetLife has the responsibility of Claim Fiduciary for the provision of full and fair review of claim denials pursuant to Section 503 of ERISA.

In carrying out their respective responsibilities under the Plan, the Plan Administrator and other Plan fiduciaries shall have the discretionary authority to interpret the terms of the Plan and to

determine eligibility for and entitlement to Plan benefits in accordance with the terms of the Plan. Any interpretation or determination made pursuant to such discretionary authority shall be given full force and effect, unless it can be shown that the interpretation or determination was arbitrary and capricious.

If you have any questions about the Plan or your benefits, you should contact your local Human Resources representative or write the Plan Administrator at the following address:

Manager, Personnel Policy and Technical Support
Sears, Roebuck and Co.
Department 707BEN
3333 Beverly Road, E2-103B
Hoffman Estates, IL 60179

The person designated above is also the designated agent for service of legal process.

**Plan Amendment and Termination**

Although Sears intends to continue the Plan at the direction of the Company, the Vice-President of Benefits has the right to modify, amend, suspend, or terminate the Plan at any time.

---

**ERISA RIGHTS**

As a participant in the Group Long-Term Disability Insurance Plan, you are entitled to certain rights and protections under the Employee Retirement Income Security Act of 1974 (ERISA). ERISA provides that all Plan participants shall be entitled to:

- examine, without charge, at the Plan Administrator's office end at other specified locations, all Plan documents, including

insurance contracts, and copies of all documents filed by the Plan with the United States Department of Labor, such as detailed annual reports and Plan descriptions;

- obtain copies of all Plan documents and other Plan information upon written request to the Plan Administrator. The Administrator may make a reasonable charge for the copies; and
- receive a summary of the Plan's annual financial report. The Plan Administrator is required by law to furnish each participant with a copy of this summary annual report.

* * *